United States Court of Appeals

for the Second Circuit

APPENDIX

with affidavit

76-6097
76-6099

B
P/S

United States Court of Appeals
FOR THE SECOND CIRCUIT
Docket Nos. 76-6097, 76-6099

F. W. EVERSLEY & CO., INC. & F. W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiff-Appellee,

—v.—

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, Secretary of the United States Department of Housing & Urban Development & MANUFACTURERS HANOVER TRUST CO.,

Defendants,

CARLA A. HILLS, Secretary of the United States Department of Housing and Urban Development and MANUFACTURERS HANOVER TRUST CO.,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

ROBERT B. FISKE, JR.,
United States Attorney for the Southern District of New York,
Attorney for Defendant-Appellant Hills.

DEMOV, MORRIS, LEVIN & SHEIN,
Attorneys for Plaintiff-Appellee,
40 West 57th Street,
New York, New York 10019

UNITED STATES COURT OF APPEALS
FILED
SEP 10 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

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DIST/OFFICE	DOCKET YR.	DOCKET NUMBER	FILING DATE MO.	DAY	YEAR	J	N/S	O	R	R 23	DEMAND S 572	OTHER	JUDGE NUMBER	JURY DEM	DOCKET YR.	DOCKET NUMBER
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PLAINTIFFS

F.W. EVERSLEY & CO.,INC. (ET AL)
F.W.EVERSLEY & CO.,INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Deveolopment Fund Corporation

DEFENDANTS WERKER J.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
LYNN, JAMES T., SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
MANUFACTURERS HANOVER TRUST CO.

Rel. to 74-4475 and 5041

CAUSE

Breach of guaranty contract
recover monies from work done under construction contract

s/s

ATTORNEYS

Demov,Moris,Levin & Shein
40 West 57St,NYC 10019
757-5050

For deft. James T. Lynn
U.S. Attys. Office
40 Foley Square
NYC 10007

For deft. Mfg.Hanover Trust Co:
Weisman, Celler, Spett, Modlin, Wertheimer. 425 Park Ave., NYC 10022
371-5400

UNITED STATES COURT OF APPEALS
FILED
JUL 20 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID DATE	RECEIPT NUMBER	C.D. NUMBER	STATISTICAL CARDS CARD	DATE MAILED
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UNITED STATES DISTRICT COURT DOCKET

DC-111 (Rev. 1)

(A)

FW EVERSLEY & CO., INC. ET AL VS BROWNSVILLE HOUSING DEV. ET AL WERKER,J.
75 Civ.C085

DATE	NR.	PROCEEDINGS
-08-75		Filed petition for removal from the Supreme Court, State of New York, County of New York
-09-75		Filed deft's notice and affdvt. of mailing of petition for removal.
-28-75		Filed stip. and order that the time of deft. James T. Lynn to answer is ext. to 2-17-75 -- Werker, J.
-31-75		Filed ANSWER of deft. Manufacturers Hanover Trust Co. WCSM&W
-05-75		Filed stip. and order ext. deft. Mfg. Hanover Trust Co.'s time to answer to 1-31-75 -- Werker, J.
-21-75		Filed ANSWER and CROSS-CLAIM of deft. Lynn * USAttv.
-14-75		Filed pltfs. exhibits, affdvt. and notice of motion for summary judgment - ret. 5-29-75 * and to amend complaint
-14-75		Filed pltfs. memorandum of law in support of above motion
-14-75		Filed pltfs. statement under Rule 9.
-14-75		Filed pltfs. suppl. affdvt. of Thomas W. Eversley in support of motion to increase ad damnum portion of complaint.
-09-75		Filed stip. and order that pltfs. motion for summary judgment is adj. to June 19,1975 and the defts. agree to serve the pltfs. atty. memoranda of law and other opposition papers by June 12,1975. So ordered, Werker, J. (MFV)
-26-75		Filed statement of Manufacturers Hanover Trust Co. pursuant to Rule 9.
-26-75		Filed deft. Manufacturers Hanover Trust Co.'s affdvt. in opposition to motion for summary judgment.
-26-75		Filed memorandum of law of Manufacturers Hanover Trust Co. in opposition to motion for summary judgment.
-04-75		Filed deft. Hills, affdvt. statement under Rule 9(g) and notice of motion for summary judgment - ret. 8-12-75
-04-75		Filed deft Hills memorandum of law in support of motion for summary judgment.
-04-75		Filed pltf's repl memorandum in re motion for summary judgment.
-11-75		Filed deft. Dept. of Housing and Urban Devel. affdvt. of Margaret Myerson.
-12-75		Hearing begun & concluded before Werker,J. re: motion and cross motion for summary judgment. - Decision Reserved. (order to be submitted.)
-22-75		Filed order that leave is hereby given to deft. Manufacturers Hanover Trust Co. to file its amended answer by including therein, as a fourth defense to the 2nd cause of action, the Statute of Limitation. -- Werker, J.
-03-75		Filed by deft. Mfgs. Hanover Trust Co. AMENDED ANSWER to complaint. WCSM&W
9-09-75		Filed AMENDED ANSWER AND CROSS-CLAIM of deft. Hills US Att
9-19-75		Filed order that the Secretary may serve and file an amended answer interposing the de of the statute of limitations to pltf's claim for relief under NY Lien Law 77 -- Werker, J.
02-06-76		Opinion #43844. For reasons stated herein, summary judgment is ded in favor of Eversley against the Secretary in East New York CIV 84) and against Manufacturers in Brownsville (75 CIV 85). Submit order on notice. -- Werker, J. m/n (placed in 75 CIV 84)
04-15-76		Filed order and judgment that pltf. Eversley recover the sum of $572,100.00 plus interest at 6% per annum as set forth herein. Recovery by pltf plus interest, be of deft. Manufacturers Hanover Trust Co. as indicated herein, etc. -- Werker, J. - Judgment ent.- Clerk.
05-10-76		Filed stip. and order staying execution of any proceedings to enforce order and judgment of 4-19-76 pending the determination of appeal by defts Mfg Hanover Trust Co. and Carla A. Hills. -- Werker, J.
06-14-76		Filed deft. Hills notice of appeal to the USCA for the 2nd Circuit from order and judgment entered on 4-19-76 -- copies mailed to Damov, Morris Levin & Shein, Esqs. and Weisman, Celler, Spett, Modlin, Wertheimer & Schlesinger, Esqs.

(R)

B 3

75 CIV 85 HFW
F.W. Eversley & Co., Inc. v.
Brownsville Housing Development Fund Corp. page 3

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	J
06-14-76	Filed notice of appeal by deft. Manufacturers Hanover Trust Co. to the USCA for the 2nd Circuit from judgment and order entered on 4-19-76 -- copies mailed to US Atty. and Demov, Morris, Levin & Shein, Esqs.	

A TRUE COPY
RAYMOND F. BURGHARDT, CLERK
By M. Shiel
Deputy Clerk

C

B 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F.W. EVERSLEY & CO INC. etc.

Plaintiff

-v-

Brownsville Housing Development Fund Coop.

Defendants

CASE NO. 75 Civ 85

JUDGE HF Werker

CLERK'S CERTIFICATE.

I, RAYMOND F. BURGHARDT, Clerk of the District Court of the United States for the Southern District of New York, do hereby certify that the certified copy of docket entries lettered A- C, and the original filed papers numbered 1 thru 28, and exhibits _____, inclusive, constitute the record on appeal in the above entitled proceeding; except for the following missing documents:

DATE FILED PROCEEDINGS

IN TESTIMONY WHEREOF, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, this 20th day of July, in the year of our Lord, One thousand nine hundred and seventy six, and of the Independence of the United States the 200 year.

Raymond F. Burghardt
Clerk of the Court

UNITED STATES COURT OF APPEALS
FILED
JUL 20 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PCS:bj
74-3984
d-665

B 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F. W. EVERSLEY & CO., INC., and F.W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- v -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, AND MANUFACTURERS HANOVER TRUST CO.,

Defendants.

JUDGE WERKER

75 Civ. 85

PETITION FOR REMOVAL

74 Civ.

U.S. DISTRICT COURT FILED JAN 8 1975 S. D. OF N. Y.

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK:

The petition of defendant James T. Lynn, the Secretary of Housing and Urban Development ("the Secretary"), by his attorney, Paul J. Curran, United States Attorney for the Southern District of New York, respectfully states:

1. On December 18, 1974, the office of the United States Attorney for the Southern District of New York was served with a summons and complaint, a copy of which is annexed to this petition.

2. The plaintiff in this action is seeking preliminary and final injunctive relief that in part would restrain the Secretary from taking certain action in his official capacity. It also seeks damages from the Secretary for action that he has taken or may take in his official capacity. This is therefore a civil action commenced in a state court against an officer of the United States for an act under color of his office, within the meaning of 28 U.S.C. §§ 1422(a)(1), and this action may be removed to this Court pursuant to that section.

(1)

PCS:mb
74-3984
d-665

WHEREFORE, it is respectfully requested that this action be removed to this Court pursuant to 28 U.S.C. § 1442(a)(1).

Dated: New York, New York

January 8, 1975

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendant Lynn

By: Peter C. Salerno

PETER C. SALERNO
Assistant United States Attorney
Office & Post Office Address:
United States Court House
Foley Square
New York, New York 10007
Telephone: (212) 791-1959

PCS:mb
74-3984
d-665

B 7

VERIFICATION

STATE OF NEW YORK
COUNTY OF NEW YORK
SOUTHERN DISTRICT OF NEW YORK

PETER C. SALERNO, being duly sworn, deposes and says:

1. I am an Assistant United States Attorney in the Office of Paul J. Curran, United States Attorney for the Southern District of New York, and in that capacity I represent the defendant James T. Lynn, Secretary of Housing and Urban Development.

2. I have read the foregoing petition and know the contents of it, and it is true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

3. The source of my information and the grounds of my belief are official records and files of the United States.

Peter C. Salerno

PETER C. SALERNO
Assistant United States Attorney

Sworn to before me this
8th day of January, 1975

Notary Public

WALTER G. BRANNON
Notary Public, State of New York
No. 24-0394500
Qualified in Kings County
Cert. filed in New York County
Term Expires March 30, 1975

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
----------x

F. W. EVERSLEY & CO., INC. and
F. W. EVERSLEY & CO., INC. on behalf
of itself and all other persons entitled
to share in funds allocated for the
improvement of real property owned by
Brownsville Housing Development Fund
Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND
CORPORATION, JAMES T. LYNN, SECRETARY
OF THE UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT, and
MANUFACTURERS HANOVER TRUST CO.,

COMPLAINT

Defendants.
----------x

FIRST CAUSE OF ACTION
BY F. W. EVERSLEY & CO., INC.
AGAINST ALL DEFENDANTS

Plaintiff, F. W. Eversley & Co., Inc., by its attorneys, Demov, Morris, Levin & Shein, for its first cause of action, alleges:

1. Plaintiff is, and at all times hereinafter mentioned was, a domestic corporation.

2. Upon information and belief, Brownsville Housing Development Fund Corporation (hereinafter "Brownsville") is, and at all times hereinafter mentioned was,

a domestic corporation.

3. Upon information and belief, defendant James T. Lynn (hereinafter "the Secretary") is, and at all times hereinafter mentioned was, the Secretary of the Department of Housing and Urban Development, the government agency charged with the responsibility of, among other things, insuring mortgages to be used in connection with the construction of housing developments.

4. Upon information and belief, defendant Manufacturers Hanover Trust Co. (hereinafter "Bank") is a domestic banking corporation.

5. On or about November 10, 1970, Brownsville entered into a building loan agreement with Bank, subject to the approval of the Secretary, to provide mortgage funds for the construction of Nobel Drew Ali Plaza I, FHA Project No. 012-44002-NP-R, a low income housing development located in Brooklyn, New York.

6. As set forth in the building loan agreement, Bank received a commitment from the Secretary, referred to therein as the Federal Housing Commissioner, for the insurance of the building loan under the provisions of the National Housing Act.

7. As further provided in the building loan agreement, Bank agreed to loan Brownsville the principal

sum of $10,096,000 to be advanced in periodic stages during the course of construction, of which sum the amount of $7,620,700 was to be made available for the improvement of the property.

8. The allocation of said $7,620,700 as the net sum available for the improvement of the real property was made pursuant to Section 22 of the Lien Law of the State of New York.

9. All monies loaned and to be loaned under the building loan agreement, including retainages and escrow deposits, were required to be held by Brownsville, Bank, or the Secretary, as the case may be, as trust funds for the benefit of contractors performing the work, labor and services for the housing development.

10. Contemporaneously with the execution of the building loan agreement, and on or about November 10, 1970, plaintiff, as contractor, and Brownsville, as owner, entered into contracts for the general and offsite construction of Nobel Drew Ali Plaza I.

11. Pursuant to the terms and conditions of the aforesaid construction contracts, Brownsville agreed to pay plaintiff $7,620,700 for general construction and $81,325 for offsite construction, plus additional sums for approved work orders, presently totalling the sum of $110,297.

12. Also, pursuant to the terms of the aforesaid contracts, plaintiff agreed that it would not file mechanic's or materialmen's liens or maintain any claim against the owner's real estate or improvement for or on account of any work done, labor performed, or materials furnished under the contract.

13. In accordance with the agreements entered into among Brownsville, Bank and the Secretary, the cost of the improvements was to be paid totally by the advances under the building loan and Brownsville was not required to make any financial investment in the development.

14. During the course of construction, monies were advanced by Bank to Brownsville and progress payments were then made to plaintiff pursuant to the building loan agreement.

15. Plaintiff has completed all work required by the construction contracts and related documents, and more than 30 days have elapsed since notice of said completion was given to Brownsville, Bank and the Secretary.

16. Notwithstanding plaintiff's completion of the project, and despite due demand therefor, Brownsville, Bank and the Secretary have failed to advance or authorize advances of additional monies under the building loan agreement to satisfy the outstanding claims of plaintiff under

its contract for general construction.

17. Upon information and belief, there presently exists a fund for the payment of plaintiff's claims being maintained either by Bank or by the Secretary, or by both, which fund these defendants have refused to utilize to satisfy plaintiff's claims.

18. This fund consists of, among other things, retained percentages and constitutes a trust fund under the Lien Law of the State of New York.

19. Plaintiff is a third-party beneficiary of this fund.

20. Upon information and belief, a judgment solely against Brownsville will be without force and there is insufficient equity in Nobel Drew Ali Plaza I to satisfy plaintiff's claims.

21. Under the building loan agreement and applicable federal regulations and common law, either Bank or the Secretary, or both, as mortgagees, or assignee of the mortgagee, are required to maintain advances for the benefit of creditors of Brownsville.

22. By virtue of the foregoing, Brownsville, Bank, and the Secretary, as their interests may appear, are liable to plaintiff for the balance due under the general construction contract in the sum of $461,807 and

the balance due for approved change orders in the sum of $110,297 making a total of $572,104.

SECOND CAUSE OF ACTION BY PLAINTIFF F. W. EVERSLEY & CO., INC. ON BEHALF OF ITSELF AND ALL OTHER PERSONS ENTITLED TO SHARE IN FUNDS ALLOCATED FOR THE IMPROVEMENT OF REAL PROPERTY OWNED BY BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION AGAINST ALL DEFENDANTS

23. Subsequent to November 10, 1970, the date on which plaintiff entered into the contract with Brownsville, plaintiff entered into numerous subcontracts to furnish materials and perform labor for the construction of the project.

24. Thereafter, plaintiff and its subcontractors performed their respective contracts and duly furnished materials and performed labor and became entitled to payments on account of the contracts.

25. There is presently due and owing to plaintiff and its subcontractors the sum of $572,104 on account of the materials furnished and labor performed for the project.

26. Pursuant to the Lien Law of the State of New York, plaintiff and its subcontractors are entitled as statutory beneficiaries to the payment for the materials furnished and labor performed out of the funds advanced and to be advanced under the aforesaid building loan agreement.

27. These funds, consisting of, among other things, retained percentages and escrow deposits, are statutory trust funds and are required by law to be expended and applied for the payment of the cost of the improvement and, on information and belief, are presently in the hands of Brownsville, Bank or the Secretary, or all of them.

28. This cause of action is brought pursuant to the provisions of Section 77 of the Lien Law, on behalf of plaintiff and on behalf of all other Lien Law trust beneficiaries who may seek to be vouched in, and who shall contribute to the expense of this action and to participate in the proceeds thereof.

29. Brownsville, Bank and the Secretary are made parties to this cause of action because common questions of law and fact may arise growing out of the transactions and occurrences alleged herein and they are indispensible.

30. One year has not elapsed since the formal completion of the improvement upon which plaintiff's claim arose.

31. Plaintiff does not have an adequate remedy at law.

WHEREFORE, plaintiff demands judgment, as follows:

A. On its first cause of action, against all defendants, in the sum of $572,104, plus interest, costs and disbursements.

B. On its second cause of action, against all defendants, requiring them to account for the funds set forth herein which were received or to be received for the improvement of real property; declaring Brownsville, Bank and the Secretary, as their interest may appear, trustees of said trust funds, adjudging plaintiff, and all others who might have joined in this action, to have a claim thereon for the amount of its respective claim with interest.

C. On both its causes of action, for the costs and disbursements of this action and an adequate allowance of counsel fees, and such further or different relief as the Court may determine as just and proper and equitable under the circumstances.

DEMOV, MORRIS, LEVIN & SHEIN
Attorneys for Plaintiffs
40 West 57th Street
New York, New York 10019
(212) 757-5050

B 16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

F. W. EVERSLEY & CO., INC., and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- against -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

----------X

H7W

75 Civ. 85

ANSWER

S.D. OF N.Y.
MAY 31 12 51 PM '75

Defendant, Manufacturers Hanover Trust Company, for its answer to the complaint herein by Weisman, Celler, Spett, Modlin & Wertheimer, its attorneys:

1. Denies knowledge or information sufficient to form a belief as to the allegations in paragraphs 1, 10, 20, 23, 24 and 25 of the complaint.

2. Denies the allegations in paragraphs 5, 6, 7, 8, 9, 11, 12 and 13 except admits that a building loan agreement dated the 18th day of November, 1970 was entered into by and between

(4)

Brownsville Housing Development Fund Corporation as "Borrower" and Manufacturers Hanover Trust Company as "Lender" and reference thereto is herewith made for all of the terms and provisions thereof.

3. Denies knowledge or information sufficient to form a belief as to the allegations of paragraph 14 except that during the course of construction, monies were advanced by this defendant to the Borrower.

4. Denies knowledge or information sufficient to form a belief as to the allegation that plaintiff has completed all work required by the construction contracts and related documents and denies the remaining allegations of paragraphs 15 and 16.

5. Denies the allegations contained in paragraphs 17, 18, 19, 21, 22, 26, 27, 28, 29, 30 and 31.

FIRST DEFENSE

6. The complaint fails to state a claim against defendant upon which relief can be granted.

SECOND DEFENSE

7. The building loan agreement made the 18th day of November, 1970 provides, in part, in paragraph (4)(a) thereof

that the Borrower shall make monthly applications on FHA Form No. 2403 for advances of mortgage proceeds from the Lender, that each application shall be filed at least five (5) days before the date the advance is desired, and the Borrower shall be entitled thereon only to such amount as may be approved by the Lender and the Federal Housing Commissioner, referred to therein as the "Commissioner."

8. The defendant has made all advances to the Borrower for which applications were made and which were approved by the Commissioner.

THIRD DEFENSE

9. The building loan agreement provides, in part, in paragraph (4)(e) thereof that the defendant shall, in accordance with the provisions of the agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default thereunder or under the Note or Mortgage executed by the Borrower and referred to in said agreement.

10. The Borrower has been and is in default under the Note and Mortgage in the payment of principal, interest, insurance and other charges in the total amount of $151,316.47.

WHEREFORE, defendant demands judgment dismissing the complaint, together with the costs and disbursements of this action.

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER
Attorneys for Defendant
MANUFACTURERS HANOVER TRUST COMPANY

By: Samuel R. Rudey
Samuel R. Rudey
A Member of the Firm
Office & P.O. Address
425 Park Avenue
New York, New York 10022
Tel.: (212) 371-5400

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HELEN ROTHSTEIN, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 72 Blauvelt Road, Monsey, New York.

On January 30, 1975, deponent served the within Answer upon DEMOV, MORRIS, LEVIN & SHEIN, ESQS., attorneys for plaintiff, at 40 West 57th Street, New York, New York 10019 and upon PAUL J. CURRAN, ESQ., attorney for the defendant James T. Lynn, at United States Courthouse, Foley Square, New York, New York 10007, the addresses designated by said attorneys for that purpose by depositing true copies of same enclosed in postpaid properly addressed wrappers in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me on
January 30, 1975

Charles Wayne

CHARLES WAYNE
NOTARY PUBLIC, State of New York
No. 30-9554150
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires March 30, 1976

Helen Rothstein
Helen Rothstein

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F. W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- against -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

RECEIVED IN CHAMBERS OF JUDGE HENRY F. WEINER
SEP 9 1975

75 Civ. 85 (HFW)

SEP 10 12 15 AM '75

AMENDED ANSWER

Pursuant to leave granted by order of this Court dated August 20, 1975, defendant Manufacturers Hanover Trust Company, for its amended answer to the complaint herein by Weisman, Celler, Spett, Modlin & Wertheimer, its attorneys:

1. Denies knowledge or information sufficient to form a belief as to the allegations in paragraphs 1, 10, 20, 23, 24 and 25 of the complaint.

2. Denies the allegations in paragraphs 5, 6, 7, 8, 9, 11, 12 and 13 except admits that a building loan agreement dated the 18th day of November, 1970 was entered into by and between Brownsville Housing Development Fund Corporation as "Borrower" and Manufacturers Hanover Trust Company as "Lender" and reference thereto is herewith made for all of the terms and provisions thereof.

20

3. Denies knowledge or information sufficient to form a belief as to the allegations of paragraph 14 except that during the course of construction, monies were advanced by this defendant to the Borrower.

4. Denies knowledge or information sufficient to form a belief as to the allegation that plaintiff has completed all work required by the construction contracts and related documents and denies the remaining allegations of paragraphs 15 and 16.

5. Denies the allegations contained in paragraphs 17, 18, 19, 21, 22, 26, 27, 28, 29, 30 and 31.

FIRST DEFENSE

6. The complaint fails to state a claim against defendant upon which relief can be granted.

SECOND DEFENSE

7. The building loan agreement made the 18th day of November, 1970 provides, in part, in paragraph (4)(a) thereof that the Borrower shall make monthly applications on FHA Form No. 2403 for advances of mortgage proceeds from the Lender, that each application shall be filed at least five (5) days before the date the advance is desired, and the Borrower shall be entitled thereon only to such amount as may be approved by the Lender and the Federal Housing Commissioner, referred to therein as the "Commissioner."

8. The defendant has made all advances to the Borrower for which applications were made and which were approved by the Commissioner.

THIRD DEFENSE

9. The building loan agreement provides, in part, in paragraph (4)(e) thereof that the defendant shall, in accordance with the provisions of the agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default thereunder or under the Note or Mortgage executed by the Borrower and referred to in said agreement.

10. The Borrower has been and is in default under the Note and Mortgage in the payment of principal, interest, insurance and other charges in the total amount of $606,704.15.

FOURTH DEFENSE TO SECOND CAUSE OF ACTION

11. The second cause of action alleged in the complaint herein accrued on February 12, 1973, more than one year prior to the commencement of this action.

WHEREFORE, defendant demands judgment dismissing the complaint, together with the costs and disbursements of this action.

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER
Attorneys for Defendant
MANUFACTURERS HANOVER TRUST COMPANY

By: Samuel R. Rudey
Samuel R. Rudey
A Member of the Firm

Office & P.O. Address
425 Park Avenue
New York, New York 10022
Tel.: (212) 371-5400

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HELEN ROTHSTEIN, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 72 Blauvelt Road, Monsey, New York.

On August 29, 1975, deponent served the within Amended Answer upon DEMOV, MORRIS, LEVIN & SHEIN, ESQS., attorneys for plaintiff, at 40 West 57th Street, New York, New York 10019 and upon PAUL J. CURRAN, ESQ., attorney for the defendant Carla A. Hills, at United States Courthouse, One St. Andrew's Plaza, New York, New York 10007, the addresses designated by said attorneys for that purpose, by depositing true copies of same enclosed in postpaid properly addressed wrappers in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me on
August 29, 1975.

Charles Wayne

CHARLES WAYNE
NOTARY PUBLIC, State of New York
No. 31-9554150
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires March 30, 1976

Helen Rothstein

PCS:par
74-3985

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F.W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- v -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

ANSWER AND CROSS CLAIM OF DEFENDANT LYNN

75 Civ. 85(HFW)

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
Feb 21 | 15 PM '75

Defendant James T. Lynn ("the Secretary"), by his attorney, Paul J. Curran, United States Attorney for the Southern District of New York, answers the complaint as follows:

First Defense

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 1, 2, 4, 8, 11, 12, 13, 14, 15, 20, 23, 24, 25, 28, 29 and 30 of the complaint, except that in addition, as to those paragraphs that allege the terms of agreements, the Secretary respectfully refers to those agreements for their terms, and as to those that allege conclusions of law, they are respectfully referred to the Court for determination.

2. Admits the allegations of paragraph 3 of the complaint.

3. With respect to paragraphs 5 and 7 of the complaint admits, on information and belief, that defendant Brownsville Housing Development Fund Corporation ("Brownsville") entered into a building loan agreement with defendant Manufacturers Hanover Trust Co. ("the Bank"), and respectfully refers to that agreement for its terms.

(6)

PCS:iw
74-3983

4. With respect to paragraph 6 of the complaint, admits that the Bank received a commitment from the Secretary to insure, under provisions of the National Housing Act and regulations thereunder, a mortgage note secured by a mortgage on the project described in paragraph 5 of the complaint.

5. Denies the allegations of paragraphs 9, 17, 18, 19, 21, 22, 26, 27 and 31 of the complaint.

6. With respect to paragraph 10 of the complaint, admits the formation of the agreements referred to therein and respectfully refers to those agreements for their terms.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the complaint, except states that the Secretary has approved every advance presented to it by the Bank.

Second Defense

8. Pursuant to the terms of a building loan agreement entered into between defendants Brownsville and the Bank on or about November 18, 1970, the Bank was not obligated to make advances of loan proceeds if Brownsville became in default of its obligations under the agreement.

9. Brownsville became in default of its obligations under the building loan agreement in February, 1973. The Bank has made, and the Secretary had approved, all advances requested up to the time of Brownsville's default.

10. By reason of the foregoing, the Bank was not obligated to make, and the Secretary, in his capacity as insurer of the mortgage, was likewise not obligated to make or approve, any further advances of loan proceeds.

Third Defense

11. As to the Secretary, the complaint fails to state a claim upon which relief may be granted.

PCS:sr
74-3984

Cross Claim Against Defendant Brownsville

12. If the Secretary is held liable to the plaintiff in this action, it will be solely for an amount due plaintiff in the first instance from Brownsville pursuant to the construction contract and other agreements between Brownsville and plaintiff.

13. For the foregoing reason, defendant Brownsville is liable to the Secretary for any sums which the plaintiff may be held entitled to recover from the Secretary in this action.

WHEREFORE, the Secretary respectfully requests judgment:

(a) dismissing the complaint in its entirety as to the Secretary;

(b) on his cross claim, for any amount which the Secretary may be held obligated to pay plaintiff in this action; and

(c) for costs, disbursements, and such other relief as is just.

Dated: New York, New York
February 20, 1975

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendant Lynn

By: Peter C. Salerno

PETER C. SALERNO
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse
Foley Square
New York, New York 10007
Telephone: 212-791-1959

CS:sr
4-3984

TO: DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER, ESQS.
Attorneys for Defendant Manufacturers Hanover Trust Co.
425 Park Avenue
New York, New York 10022

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
37 New Lots Avenue
Brooklyn, New York

B 29

PCS:mkb
74-2984
n-670

RECEIVED IN CHAMBERS OF JUDGE HENRY F. WERKER
SEP 11 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F. W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- v -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

AMENDED ANSWER AND CROSS CLAIM OF DEFENDANT HILLS

75 Civ. 85 (HFW)

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
SEP 9 11 05 AM '75

Defendant Carla A. Hills ("the Secretary"), by her attorney, Paul J. Curran, United States Attorney for the Southern District of New York, answers the complaint as follows:

First Defense

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 1, 2, 4, 8, 11, 12, 13, 14, 15, 20, 23, 24, 25, 28, 29 and 30 of the complaint, except that in addition, as to those paragraphs that allege the terms of agreements, the Secretary respectfully refers to those agreements for their terms, and as to those that allege conclusions of law, they are respectfully referred to the Court for determination.

2. Admits the allegations of paragraph 3 of the complaint.

3. With respect to paragraphs 5 and 7 of the complaint admits, on information and belief, that defendant Brownsville Housing Development Fund Corporation ("Brownsville") entered into a building loan agreement with defendant Manufacturers Hanover Trust Co. ("the Bank"), and respectfully refers to that agreement for its terms.

(21)

PCS:mkb
74-3984
n-67-

4. With respect to paragraph 6 of the complaint, admits that the Bank received a commitment from the Secretary to insure, under provisions of the National Housing Act and regulations thereunder, a mortgage note secured by a mortgage on the project described in paragraph 5 of the complaint.

5. Denies the allegations of paragraphs 9, 17, 18, 19, 21, 22, 26, 27 and 31 of the complaint.

6. With respect to paragraph 10 of the complaint, admits the formation of the agreements referred to therein and respectfully refers to those agreements for their terms.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the complaint, except states that the Secretary has approved every advance presented to it by the Bank.

Second Defense

8. Pursuant to the terms of a building loan agreement entered into between defendants Brownsville and the Bank on or about November 18, 1970, the Bank was not obligated to make advances of loan proceeds if Brownsville became in default of its obligations under the agreement.

9. Brownsville became in default of its obligations under the building loan agreement in February, 1973. The Bank has made, and the Secretary had approved, all advances requested up to the time of Brownsville's default.

PCS:mkb
74-3984
n-670

10. By reason of the foregoing, the Bank was not obligated to make, and the Secretary, in her capacity as insurer of the mortgage, was likewise not obligated to make or approve, any further advances of loan proceeds.

Third Defense

11. As to the Secretary, the complaint fails to state a claim upon which relief may be granted.

Fourth Defense, as to Plaintiff's Second Cause of Action

12. Plaintiff's claim for relief pursuant to Section 77 of the New York Lien Law is barred by the one-year limitations period contained in that section.

Cross Claim Against Defendant Brownsville

13. If the Secretary is held liable to the plaintiff in this action, it will be solely for an amount due plaintiff in the first instance from Brownsville pursuant to the construction contract and other agreements between Brownsville and plaintiff.

14. For the foregoing reason, defendant Brownsville is liable to the Secretary for any sums which the plaintiff may be held entitled to recover from the Secretary in this action.

WHEREFORE, the Secretary respectfully requests judgment:

(a) dismissing the complaint in its entirety as to the Secretary; or, in the alternative.

(b) dismissing the second cause of action in the complaint on the ground that it is time-barred;

PCS:mkb
74-3984
a-670

(c) on her cross claim, for any amount which the Secretary may be held obligated to pay plaintiff in this action; and

(d) for costs, disbursements, and such other relief as is just.

Dated: New York, New York

September 5, 1975

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendant Hills

By: Peter C. Salerno
PETER C. SALERNO
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1979

TO:

DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

WEISMAN, CELLER, SPETT, MODLIN &
WERTHEIMER, ESQS.
Attorneys for Defendant
Manufacturers Hanover Trust Co.
425 Park Avenue
New York, New York 10022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

F. W. EVERSLEY & CO., INC. and
F. W. EVERSLEY & CO., INC. on behalf
of itself and all other persons entitled
to share in funds allocated for the
improvement of real property owned by
Brownsville Housing Development Fund
Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND
CORPORATION, CARLA A. HILLS, SECRETARY
OF THE UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT, and
MANUFACTURERS HANOVER TRUST CO.,

Defendants.
----------x

75 Civ. 85

(H.F.W.)

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER

MAY 15 1975

NOTICE OF MOTION TO AMEND COMPLAINT AND FOR SUMMARY JUDGMENT

S I R S:

PLEASE TAKE NOTICE that upon the annexed affidavit of Thomas W. Eversley, sworn to April 25, 1975, with exhibits annexed thereto, and upon all prior pleadings and proceedings had herein, the undersigned will move this Court in Room 1505, United States District Courthouse, Foley Square, New York, New York, on May 29, 1975, at 9:30 a.m., or as soon thereafter as counsel can be heard, for order, pursuant to Fed. R. Civ. Proc., Rule 15(a), granting plaintiff leave to increase the ad damnum portion of its complaint to $591,216.20, plus interest from February 18, 1973, and for summary judgment, pursuant to Fed. R. Civ. Proc., Rule 56(a), granting plaintiff the relief sought in the complaint as amended, and for such other and further relief as the Court may deem just and proper.

Dated: May 8, 1975

DEMOV, MORRIS, LEVIN & SHEIN

By _____
A Member of the Firm
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

TO: PAUL J. CURRAN, United States Attorney
for the Southern District of New York
Attorney for Defendant Carla A. Hills
Attention: Peter C. Salerno, Esq.
United States Courthouse, Foley Square
New York, New York 10007

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER
425 Park Avenue
New York, New York 10022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

F. W. EVERSLEY & CO., INC. and
F. W. EVERSLEY & CO., INC. on behalf
of itself and all other persons entitled
to share in funds allocated for the
improvement of real property owned by
Brownsville Housing Development Fund
Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND
CORPORATION, CARLA A. HILLS, SECRETARY
OF THE UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT, and
MANUFACTURERS HANOVER TRUST CO.,

Defendants.
----------x

75 Civ. 85

(H.F.W.)

AFFIDAVIT IN
SUPPORT OF
MOTION FOR
SUMMARY JUDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

THOMAS W. EVERSLEY, being duly sworn, deposes and says:

I am the vice president of F. W. Eversley & Co., Inc. and a member of the bar of the State of New York. I am thoroughly familiar with the facts and circumstances of this action and I make this affidavit in support of plaintiff's motion (1) to increase the ad damnum portion of its complaint to $591,216.20, plus interest from February 18, 1973 and (2) for summary judgment granting plaintiff the full relief sought herein. (The complaint and the answers of defendants James T. Lynn* and Manufacturers Hanover Trust Co. are annexed hereto as Exhibits A, B and C.)**

Plaintiff's motion for summary judgment comes after two years of intensive, yet futile, efforts by it to obtain final payment under a contract for the construction of a housing project that has been in occupancy since January, 1973. The final payment sought by plaintiff represents the cost

*Since replaced by Carla A. Hills as Secretary of the Department of Housing and Urban Development.
**Defendant Brownsville Housing Development Fund Corp. has defaulted in appearance.

of performing approved construction changes as well as a percentage of earned payments held back during the course of construction by the project mortgagee, defendant Manufacturers Hanover Trust Co. (hereinafter "Manufacturers").

Plaintiff has been unable to receive this final payment because of mortgage defaults by the owner, defendant Brownsville Housing Development Corporation (hereinafter "Brownsville") -- after completion of the project -- and because of demands on the owner made by the Secretary of the Department of Housing and Urban Development (hereinafter "the Secretary" and "HUD") to return approximately $250,000 of "misdirected" funds to the project. However, neither of these circumstances were caused by plaintiff; yet, because of these circumstances, unless this court intervenes, the Secretary will not "close" the project and plaintiff, and its subcontractors, will lose close to $600,000.

As demonstrated below, and in the accompanying memorandum of law, there are no disputed facts in this action: The project has been completed; plaintiff has satisfactorily performed all its work; and plaintiff is entitled to final payment. Thus, we respectfully request that summary judgment be entered as demanded in our complaint.

Background of The Project

The housing project involved here, Nobel Drew Ali Plaza I, was financed and constructed under the insured mortgage program of the Federal Housing Administration (hereinafter "FHA") whereby Brownsville was able to secure a 100% loan of funds necessary to acquire the land, to construct the building, and even to pay interest during the construction period. The owner, without financial resources of any

consequence, could not and did not contribute any financing to the project. (Even the minimal "seed money" was contributed by New York City and New York State. See Exhibit D, p.2.) The absence of financial resources on the part of the owner, usual where non-profit sponsors participate in the FHA insured mortgage program, takes on added significance here. As noted above, and discussed more fully below, FHA now insists that Brownsville repay approximately $250,000 to the project because of "disallowed expenses". This demand, of course, cannot be met and the Secretary will not "close" the project.

This refusal by the Secretary to "close" the project, thereby preventing plaintiff from receiving monies justly due it, is illustrative of the complete control exercised by FHA over every aspect of the planning, financing, and construction of this and every other project in its insured mortgage program. From the determination of the cost of the project, to the arrangement of mortgage financing, to the engagement of contractors, to the supervision of construction, to the payment of requisitions, and ultimately, to closing (where final payment is made and a permanent mortgage is given the owner), FHA exercises almost dictatorial power. Every document involved in the program is FHA-drafted and nothing can be done without FHA approval. In short, the contractor does not work for the owner, it works for FHA.

Now the true owner, FHA, will not pay its contractor, although a completed, viable, income-producing development has been delivered. FHA attempts to repel this payment by hiding behind the intricate system it has established to produce precisely what plaintiff has delivered. I shall show, however, that this intricate system, in addition to

producing completed housing projects, allows for full payment to contractors who have fully performed in accordance with that system.

The Relevant Documents

As I have noted above, every aspect of the planning of this project was carefully controlled by FHA. Thus, in July, 1970, a "Project Income Analysis and Appraisal" was prepared by FHA to determine the feasibility of the project. In this analysis (Exhibit D), FHA determined that the project would cost some $7,866,216. To this sum were added items for financing, insurance, and other fees which would be incurred by the owner in connection with construction. After the addition of these items, it was estimated that the total cost of the project would be $10,096,000. (Significantly, this estimated cost of the project falls below the statutory limit of $12,500,00, thereby allowing for an increase in the mortgage if necessary because of improvements in the project.) See "Supplement to Project Income Analysis and Appraisal", annexed to Exhibit D.

Based upon the Income Analysis and Appraisal, and after additional approval by FHA, Brownsville entered into FHA-drafted agreements for the financing and construction of the project. With regard to financing, Brownsville executed a Building Loan Agreement (FHA Form 2441, Exhibit E) with Manufacturers, whereby Manufacturers agreed to loan Brownsville the estimated replacement cost of the project, $10,096,000, to be advanced during the course of construction. The advances under the building loan agreement were secured by a mortgage and mortgage note (Exhibits F & G).

In line with the Project Income Analysis, the sum of $7,697,226* was made available for the improvement of the

*To this figure is added architectural fees of $149,859 and other fees of $19,131 to arrive at the cost of improvement of $7,866,216 set forth in the Project Income Analysis.

real property. This allocation of monies for construction is recited in the owner's Lien Law Affidavit prepared pursuant to Section 22 of the Lien Law of the State of New York and made a part of the Building Loan Agreement. On the basis of this affidavit, plaintiff, and all interested parties, were informed that $7,697,226 was to be provided for the improvement of the real property. We were thereby assured that upon the satisfactory completion of the project, this sum would be paid out to laborers and materialmen. (We, as contractors, received further assurance of the payment of the funds allocated for the improvement of the real property by the provision in paragraph 4(d) of the Building Loan Agreement, which states that all advances under that agreement were to be held by the owner in trust for the contractors.)

The foregoing arrangement for financing of the project was made possible only because of the participation of FHA. Upon the execution of the Building Loan Agreement, FHA sealed its participation in the project by granting Manufacturers a commitment to insure advances made by the mortgagee under the Building Loan Agreement. In the event of a default under the Building Loan Agreement, Manufacturers could either foreclose the mortgage, in which case it would be made completely whole by FHA from mortgage insurance funds, or it could assign the mortgage to the Secretary, in which case FHA would assess a penalty of 1% of the amount of the mortgage then outstanding and then pay the net balance to the bank.

After the financing for the project was arranged, Brownsville entered into contracts with plaintiff for general

and off-site construction. Pursuant to the Construction Contract (Exhibit H), Brownsville agreed to pay plaintiff the sum of $7,697,226, as increased or decreased by approved change orders, which were known to exist even upon the execution of the contract. At that time, all parties were aware, and had agreed, that the base contract would increase by over $100,000 due to objections raised by the New York City Building Department (see Rider A to Construction Contract). FHA approved these changes and the contract recites that approval on the "Addendum to Closing, Drawings and Specifications": "The Dept. of H.U.D., New York Area office agrees to accept and process the following change order including the costs as indicated. The change order shall be filed after initial Endorsement, but no additional monies will be made available because of this change order before final endorsement."

As the project developed, in addition to the $100,050 of anticipated change orders, changes costing $29,359.20 were required and approved by Brownsville and FHA. The usual procedure for payment of these change orders is to increase the mortgage upon final endorsement. As noted above, this could be done because the mortgage fell below the statutory limit of $12,500,000.

Pursuant to the Construction Contract, payment for the work performed by plaintiff and its subcontractors was to be made on a monthly basis upon submission of a requisition (FHA Form 2448) approved by Manufacturers, Brownsville, and FHA. Request was made only after work was completed; then, plaintiff received payment as each class of work was certified as complete by FHA inspectors together with the value of material and equipment delivered to the job site. However,

even though plaintiff became entitled to full payment as work was completed, 10% of that payment was "held back" pending full completion. In arriving at the payment due, prior payments were also deducted. (See a typical requisition, Exhibit I, annexed hereto.)

Thus, referring to Exhibit I, for example, in computing the amount due plaintiff, on November 22, 1971, after 66.6% of all construction was complete, at a total value of $5,077,440, there was deducted as a holdback, or retainage, 10% thereof, $507,744. And, after deducting previous payments, plaintiff was paid the remaining amount. Stated otherwise, plaintiff earned $5.07 million, but received payment based upon $5.07 million less 10% less prior payments. That 10% was retained by Maufacturers pending completion of the project. (The 10% holdback was ultimately reduced to 5% after the project reached 95% completion.)

Completion of Construction and Request for Final Payment

During the course of construction, the FHA-created system of financing and construction seemingly worked without unusual difficulty. The project was built, the owner and FHA were satisfied, and plaintiff was paid -- almost.

The first of the two buildings in the project was completed in August, 1972 (West Building). The Permission to Occupy (FHA Form 2485) was executed on August 8 and a Temporary Certificate of Occupancy was issued by The City of New York on August 24 (see Exhibit J). Immediately, this building became income-producing. Then, in January, 1973, the East Building was completed. On January 18, the Temporary Certificate of Occupancy was issued and on January 24, plaintiff received the Permission to Occupy. (See Exhibit K.) Shortly

thereafter, that building too became income-producing.

Both buildings were completed within the time requirement of the Construction Contract (Article 2) as amended by a change order extending completion for three months because of building trades strikes (see Exhibit L).

After plaintiff's completion of all work required, there remained as payment to us the retained percentage of $461,807* and approved change orders of $129,409.20. The payment of these sums was to be made at the "closing" of the project, after the Secretary was satisfied that everything was in order. Aside from minor punch list items, not here relevant, we were required only to certify our costs in order to allow for a prompt closing. This we did on February 12, 197?. (See Exhibit N.)

Though the project was completed, a closing did not follow. Months passed and we insisted that a closing be held. The buildings were occupied, there was no objection to our work, yet FHA refused to arrange a closing, contending that it was not satisfied with the cost certification of Brownsville. We still demanded our retainage and extras, arguing that we had long ago been entitled to full payment. FHA countered by arguing that its regulations prohibited a release of retainages until the project is "closed". (More is said of this adherence to FHA regulations in our accompanying memorandum of law.)

In demanding the final balance under the contract, we came within the terms thereof allowing for final payment upon the expiration of thirty days after the work was fully completed. All conditions contained in paragraph 3 of the Construction Contract were met:

*Our pre-final and final requisitions reflect a total of $461,807 held back during construction. (See Exhibit M.)

(1) All work requiring inspection by the municipal or governmental authorities was so inspected on or before January 18, 1973.

(2) All Certificates of Occupancy were issued on or before January 18, 1973. (Exhibit K)

(3) Permissions to Occupy (FHA Form 2485) were issued on or before January 24, 1973 (see Exhibit K).

Thus, plaintiff became entitled to full payment under the Construction Contract thirty days after January 18, 1973. (It may be observed that the Construction Contract provides in paragraph 2D that "the date of completion shall be the date the Chief Underwriter signs the Final Project Inspection Report (FHA Form No. 2449)." This form has not yet been signed by FHA because, I am informed, FHA has refused to accept the owner's cost certification. Whether or not Form 2449 has in fact been signed by FHA, it is without dispute that the project is complete and has been in occupancy since January, 1973.) Despite the expiration of many months since the completion of the project, the Secretary refuses final payment to plaintiff.

Only recently have we learned the full extent of the Secretary's refusal to "close" the project. This information was learned by me personally after a recent visit with the FHA Director of Operations of the New York Area Office, located at 666 Fifth Avenue, New York, New York. Apparently, during the two years since the completion of the project, FHA has been in contact with the owner in an attempt to account for the AMPO funds (allowance to make project operational) of $201,920. These funds were originally ear-marked for operation and miscellaneous expenses, and were designed as a reserve to provide for interest overruns

and approved changes during the period of construction. We now learn, however, that FHA has disallowed the expenditure of these funds by Brownsville and insists that unless the funds are repaid to the project there will be no closing, no final endorsement, and plaintiff and our subcontractors will never be paid.

This position of FHA is quite shocking, for every AMPO disbursement was approved by FHA! Now FHA has decided that those disbursements should not have been made. Annexed as Exhibit O are the items of AMPO disbursement now being disallowed by FHA. This schedule, first taken down by me at my meeting with FHA representatives, also indicates the amount which FHA concedes is due plaintiff. Thus, FHA now acknowledges that we have earned $591,216.20 under the Construction Contract. This sum represents retainages, held back in the sum of $461,807, and approved extras of $129,409.20. Because of some misunderstanding within FHA, which the Construction Section has informed me will be corrected, FHA has preliminarily taken the position that plaintiff is to be assessed $159,306.39 as a result of liquidated damages for a supposed late completion of the project. Incredibly, the FHA Construction Section "signed off" the project of as May 25, 1973, despite actual occupancy in January, 1973.

While I am informed that a change will be made in the completion date to obviate the liquidated damages, even if these damages were to remain, it is undisputed that plaintiff is entitled to $431,909.81. However, unless we obtain the intervention of this court of equity, neither we nor our sub-

contractors will ever see these funds. As I have shown above, the owner has no resources from which it can pay FHA the monies now sought, and FHA was aware of this infirmity when it approved the various contractual undertakings entered into at the outset of this project. Plaintiff looked to FHA for supervision of this non-profit project, and is clearly entitled to be paid for the work expended. Had FHA properly performed its supervisory function, the alleged improper disbursement of AMPO funds would never have occurred. Plaintiff is now being penalized for the failings of FHA.

The Defenses to This Action

A. The Default of Brownsville

Counsel informs me that both the Secretary and Maufacturers contend that the default of Brownsville precludes plaintiff from recovering the monies earned, yet held back, under the contract. While a full legal response is made to this defense in the accompanying memorandum of law, I wish now to state that we delivered to Brownsville an income-producing property in January, 1973 and at no time were we aware that Brownsville was in default under its mortgage with Manufacturers*. If, as the Secretary states (see paragraph 9 of its answer), that Brownsville defaulted in February, this default was after completion and after our entitlement to payment. Once we earned our monies, how can we be robbed of those monies by a circumstance over which we had no control?

B. No Further Requests for Advances

I am also informed that Manufacturers contends that we are not entitled to payment because no monthly requests for advances were made. However, no more monthly requests were required. The pre-final and final requisition would

*Indeed, I am somewhat surprised at this allegation. Provisions for the payment of interest for twenty-five months is contained in the Building Loan Agreement. This would provide Brownsville with funds for payments through December, 1973. Funds for the payment of interest in January and February could have been properly made from AMPO funds or from rents which were being received.

be paid at closing. We demanded a closing; the Secretary refused.

Conclusion

The Secretary has taken a thoroughly unconscionable and immoral position that may mean the destruction of plaintiff -- and we are not alone in this struggle. Contractors throughout the country are being deprived of earned payments where the owner of an FHA sponsored project defaults after completion of construction, for reasons having nothing to do with the contractor's performance. I have attempted to show above that we performed in accordance with our construction contract and became entitled to payment on February 18, 1973. Only because of FHA's refusal to close the project have we not received payment; we are entitled to payment and we ask that judgment be entered in our favor against defendantsin the sum of $591,216.20, plus interest from February 18, 1973, together with the costs and disbursements of this action.

Thomas W. Eversley

Sworn to before me this
25th day of April, 1975.

Kenneth M. Block

KENNETH M. BLOCK
Notary Public, State of New York
No. 24 [illegible]
Qualified in [illegible] County
Term Expires March 30, 1976

A Summons and Complaint

B Answer of the United States Department of Housing and Urban Development

C Answer of Manufacturers Hanover Trust Company

D Rental Housing Project Income Analysis and Appraisal (FHA Form 2264)

E Building Loan Agreement (FHA Form 2441)

F Mortgage (FHA Form 4159-K)

G Mortgage Note (FHA Form 4159-A)

H Construction Contract - Cost Plus (FHA Form 2442-A)

I Contractor's Requisition No. 12 (FHA Form 2448)

J Permission to Occupy - East Building (FHA Form 2485); Certificate of Occupancy Dated August 25, 1972

K Permission to Occupy - West Building (FHA Form 2485); Certificate of Occupancy Dated January 8, 1973

L Request for Construction Changes Dated October 3, 1972 (FHA Form 2437)

M Contractor's Requisition - Pre-Final (FHA Form 2448); Contractor's Requistion - Final (FHA Form 2448)

N Cost Certification - February 12, 1973

O Schedule of Disallowances and The Balance Due Eversley

C 199—Summons without Notice. Supreme C[illegible]0-73
Personal Service.

B 48

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80 EXCHANGE PL. AT BROADWAY, N. Y. C. 10004

Supreme Court of the State of New York
County of NEW YORK

F. W. EVERSLEY & CO., INC. and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiff

against

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendant

Index No.

Plaintiff designates
NEW YORK
County as the place of trial

The basis of the venue is
PLAINTIFF'S RESIDENCE

Summons

Plaintiff resides at
79 West 125th Street
New York, New York
County of New York

To the above named Defendant

You are hereby summoned *to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.*

Dated, New York, New York
December 17, 1974

~~*Defendant's address:*~~

DEMOV, MORRIS, LEVIN & SHEIN
Attorney(s) for Plaintiff

Post Office Address
40 West 57th Street
New York, New York 10019
(212) 757-5050

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

F. W. EVERSLEY & CO., INC. and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

COMPLAINT

FIRST CAUSE OF ACTION
BY F. W. EVERSLEY & CO., INC.
AGAINST ALL DEFENDANTS

Plaintiff, F. W. Eversley & Co., Inc., by its attorneys, Demov, Morris, Levin & Shein, for its first cause of action, alleges:

1. Plaintiff is, and at all times hereinafter mentioned was, a domestic corporation.

2. Upon information and belief, Brownsville Housing Development Fund Corporation (hereinafter "Brownsville") is, and at all times hereinafter mentioned was

a domestic corporation.

3. Upon information and belief, defendant James T. Lynn (hereinafter "the Secretary") is, and at all times hereinafter mentioned was, the Secretary of the Department of Housing and Urban Development, the government agency charged with the responsibility of, among other things, insuring mortgages to be used in connection with the construction of housing developments.

4. Upon information and belief, defendant Manufacturers Hanover Trust Co. (hereinafter "Bank") is a domestic banking corporation.

5. On or about November 10, 1970, Brownsville entered into a building loan agreement with Bank, subject to the approval of the Secretary, to provide mortgage funds for the construction of Nobel Drew Ali Plaza I, FHA Project No. 012-44002-NP-R, a low income housing development located in Brooklyn, New York.

6. As set forth in the building loan agreement, Bank received a commitment from the Secretary, referred to therein as the Federal Housing Commissioner, for the insurance of the building loan under the provisions of the National Housing Act.

7. As further provided in the building loan agreement, Bank agreed to loan Brownsville the principal

sum of $10,096,000 to be advanced in periodic stages during the course of construction, of which sum the amount of $7,620,700 was to be made available for the improvement of the property.

8. The allocation of said $7,620,700 as the net sum available for the improvement of the real property was made pursuant to Section 22 of the Lien Law of the State of New York.

9. All monies loaned and to be loaned under the building loan agreement, including retainages and escrow deposits, were required to be held by Brownsville, Bank, or the Secretary, as the case may be, as trust funds for the benefit of contractors performing the work, labor and services for the housing development.

10. Contemporaneously with the execution of the building loan agreement, and on or about November 10, 1970, plaintiff, as contractor, and Brownsville, as owner, entered into contracts for the general and offsite construction of Nobel Drew Ali Plaza I.

11. Pursuant to the terms and conditions of the aforesaid construction contracts, Brownsville agreed to pay plaintiff $7,620,700 for general construction and $81,325 for offsite construction, plus additional sums for approved work orders, presently totalling the sum of $110,297.

12. Also, pursuant to the terms of the aforesaid contracts, plaintiff agreed that it would not file mechanic's or materialmen's liens or maintain any claim against the owner's real estate or improvement for or on account of any work done, labor performed, or materials furnished under the contract.

13. In accordance with the agreements entered into among Brownsville, Bank and the Secretary, the cost of the improvements was to be paid totally by the advances under the building loan and Brownsville was not required to make any financial investment in the development.

14. During the course of construction, monies were advanced by Bank to Brownsville and progress payments were then made to plaintiff pursuant to the building loan agreement.

15. Plaintiff has completed all work required by the construction contracts and related documents, and more than 30 days have elapsed since notice of said completion was given to Brownsville, Bank and the Secretary.

16. Notwithstanding plaintiff's completion of the project, and despite due demand therefor, Brownsville, Bank and the Secretary have failed to advance or authorize advances of additional monies under the building loan agreement to satisfy the outstanding claims of plaintiff under

its contract for general construction.

17. Upon information and belief, there presently exists a fund for the payment of plaintiff's claims being maintained either by Bank or by the Secretary, or by both, which fund these defendants have refused to utilize to satisfy plaintiff's claims.

18. This fund consists of, among other things, retained percentages and constitutes a trust fund under the Lien Law of the State of New York.

19. Plaintiff is a third-party beneficiary of this fund.

20. Upon information and belief, a judgment solely against Brownsville will be without force and there is insufficient equity in Nobel Drew Ali Plaza I to satisfy plaintiff's claims.

21. Under the building loan agreement and applicable federal regulations and common law, either Bank or the Secretary, or both, as mortgagees, or assignee of the mortgagee, are required to maintain advances for the benefit of creditors of Brownsville.

22. By virtue of the foregoing, Brownsville, Bank, and the Secretary, as their interests may appear, are liable to plaintiff for the balance due under the general construction contract in the sum of $461,807 and

the balance due for approved change orders in the sum of $110,297 making a total of $572,104.

SECOND CAUSE OF ACTION BY PLAINTIFF F. W. EVERSLEY & CO., INC. ON BEHALF OF ITSELF AND ALL OTHER PERSONS ENTITLED TO SHARE IN FUNDS ALLOCATED FOR THE IMPROVEMENT OF REAL PROPERTY OWNED BY BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION AGAINST ALL DEFENDANTS

23. Subsequent to November 10, 1970, the date on which plaintiff entered into the contract with Brownsville, plaintiff entered into numerous subcontracts to furnish materials and perform labor for the construction of the project.

24. Thereafter, plaintiff and its subcontractors performed their respective contracts and duly furnished materials and performed labor and became entitled to payments on account of the contracts.

25. There is presently due and owing to plaintiff and its subcontractors the sum of $572,104 on account of the materials furnished and labor performed for the project.

26. Pursuant to the Lien Law of the State of New York, plaintiff and its subcontractors are entitled as statutory beneficiaries to the payment for the materials furnished and labor performed out of the funds advanced and to be advanced under the aforesaid building loan agreement.

27. These funds, consisting of, among other things, retained percentages and escrow deposits, are statutory trust funds and are required by law to be expended and applied for the payment of the cost of the improvement and, on information and belief, are presently in the hands of Brownsville, Bank or the Secretary, or all of them.

28. This cause of action is brought pursuant to the provisions of Section 77 of the Lien Law, on behalf of plaintiff and on behalf of all other Lien Law trust beneficiaries who may seek to be vouched in, and who shall contribute to the expense of this action and to participate in the proceeds thereof.

29. Brownsville, Bank and the Secretary are made parties to this cause of action because common questions of law and fact may arise growing out of the transactions and occurrences alleged herein and they are indispensible.

30. One year has not elapsed since the formal completion of the improvement upon which plaintiff's claim arose.

31. Plaintiff does not have an adequate remedy at law.

WHEREFORE, plaintiff demands judgment, as follows:

A. On its first cause of action, against all defendants, in the sum of $572,104, plus interest, costs and disbursements.

B. On its second cause of action, against all defendants, requiring them to account for the funds set forth herein which were received or to be received for the improvement of real property; declaring Brownsville, Bank and the Secretary, as their interest may appear, trustees of said trust funds, adjudging plaintiff, and all others who might have joined in this action, to have a claim thereon for the amount of its respective claim with interest.

C. On both its causes of action, for the costs and disbursements of this action and an adequate allowance of counsel fees, and such further or different relief as the Court may determine as just and proper and equitable under the circumstances.

DEMOV, MORRIS, LEVIN & SHEIN
Attorneys for Plaintiffs
40 West 57th Street
New York, New York 10019
(212) 757-5050

DEMOV, MORRIS, LEVIN & SHEIN

Index No.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

F. W. EVERSLEY & CO., INC. and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, et al,

Defendants.

COMPLAINT

DEMOV, MORRIS, LEVIN & SHEIN
40 West 57th Street
New York, New York 10019
Telephone: (212) 757-5050

ATTORNEYS FOR Plaintiffs

B 57

PCS:par
74-3988

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F.W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- v -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

ANSWER AND CROSS CLAIM OF DEFENDANT LYNN

75 Civ. 85(HFW)

Defendant James T. Lynn ("the Secretary"), by his attorney, Paul J. Curran, United States Attorney for the Southern District of New York, answers the complaint as follows:

First Defense

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 1, 2, 4, 8, 11, 12, 13, 14, 15, 20, 23, 24, 25, 28, 29 and 30 of the complaint, except that in addition, as to those paragraphs that allege the terms of agreements, the Secretary respectfully refers to those agreements for their terms, and as to those that allege conclusions of law, they are respectfully referred to the Court for determination.

2. Admits the allegations of paragraph 3 of the complaint.

3. With respect to paragraphs 5 and 7 of the complaint admits, on information and belief, that defendant Brownsville Housing Development Fund Corporation("Brownsville") entered into a building loan agreement with defendant Manufacturers Hanover Trust Co. ("the Bank"), and respectfully refers to that agreement for its terms.

PCS:iw
74-3983

4. With respect to paragraph 6 of the complaint, admits that the Bank received a commitment from the Secretary to insure, under provisions of the National Housing Act and regulations thereunder, a mortgage note secured by a mortgage on the project described in paragraph 5 of the complaint.

5. Denies the allegations of paragraphs 9, 17, 18, 19, 21, 22, 26, 27 and 31 of the complaint.

6. With respect to paragraph 10 of the complaint, admits the formation of the agreements referred to therein and respectfully refers to those agreements for their terms.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the complaint, except states that the Secretary has approved every advance presented to it by the Bank.

Second Defense

8. Pursuant to the terms of a building loan agreement entered into between defendants Brownsville and the Bank on or about November 18, 1970, the Bank was not obligated to make advances of loan proceeds if Brownsville became in default of its obligations under the agreement.

9. Brownsville became in default of its obligations under the building loan agreement in February, 1973. The Bank has made, and the Secretary had approved, all advances requested up to the time of Brownsville's default.

10. By reason of the foregoing, the Bank was not obligated to make, and the Secretary, in his capacity as insurer of the mortgage, was likewise not obligated to make or approve, any further advances of loan proceeds.

Third Defense

11. As to the Secretary, the complaint fails to state a claim upon which relief may be granted.

PCS:sr
74-3984

Cross Claim Against Defendant Brownsville

12. If the Secretary is held liable to the plaintiff in this action, it will be solely for an amount due plaintiff in the first instance from Brownsville pursuant to the construction contract and other agreements between Brownsville and plaintiff.

13. For the foregoing reason, defendant Brownsville is liable to the Secretary for any sums which the plaintiff may be held entitled to recover from the Secretary in this action.

WHEREFORE, the Secretary respectfully requests judgment:

(a) dismissing the complaint in its entirety as to the Secretary;

(b) on his cross claim, for any amount which the Secretary may be held obligated to pay plaintiff in this action; and

(c) for costs, disbursements, and such other relief as is just.

Dated: New York, New York
February 20, 1975

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendant Lynn

By: Peter C. Salerno

PETER C. SALERNO
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse
Foley Square
New York, New York 10007
Telephone: 212-791-1959

S:sr
-3984

TO: DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER, ESQS.
Attorneys for Defendant Manufacturers Hanover Trust Co.
425 Park Avenue
New York, New York 10022

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
37 New Lots Avenue
Brooklyn, New York

...u will please take notice that a ____ ...hich the within is a copy, was this day ... entered in the within entitled action, ...e office of the Clerk of this Court.

...ted, N. Y., _____, 19____

Yours, etc.,

United States Attorney
Attorney for _____

Attorney for _____

...ease take notice that the within ____ ... be presented for settlement and sig... ...re of the Honorable _____ ...ed States District Judge, at the office of ... Clerk, Room 601, United States Court... ...e, Foley Square, Borough of Manhat... ... City of New York, on the ____ day of ____, 19____, at 10:30 o'clock in the ... noon or as soon thereafter as coun... ...an ... eard.

...ted, N. Y., _____, 19____

Yours, etc.,

United States Attorney
Attorney for _____

Attorney for _____

B 62

United States District Court

SOUTHERN DISTRICT OF NEW YORK

F. W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Gates-Fareken Housing Development Fund Company, Inc.,

Plaintiffs,

-v-

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, et al.,

Defendants.

ANSWER AND CROSS CLAIM OF DEFENDANT LYNN

75 Civ. 85 (HFW)

PAUL J. CURRAN
TEL. 264-1311 ~~XXXXXXX~~ 791-1959
United States Attorney
Attorney for U.S.A.

Due service of a copy of the within is hereby admitted.

New York, _____, 19____

Attorney for

To

Attorney for

FPI—SS—6-13-74—50M—1214

Recd by m
2/24/75

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

F. W. EVERSLEY & CO., INC., and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

75 Civ. 85

- against -

ANSWER

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

----------X

Defendant, Manufacturers Hanover Trust Company, for its answer to the complaint herein by Weisman, Celler, Spett, Modlin & Wertheimer, its attorneys:

1. Denies knowledge or information sufficient to form a belief as to the allegations in paragraphs 1, 10, 20, 23, 24 and 25 of the complaint.

2. Denies the allegations in paragraphs 5, 6, 7, 8, 9, 11, 12 and 13 except admits that a building loan agreement dated the 18th day of November, 1970 was entered into by and between

Brownsville Housing Development Fund Corporation as "Borrower" and Manufacturers Hanover Trust Company as "Lender" and reference thereto is herewith made for all of the terms and provisions thereof.

3. Denies knowledge or information sufficient to form a belief as to the allegations of paragraph 14 except that during the course of construction, monies were advanced by this defendant to the Borrower.

4. Denies knowledge or information sufficient to form a belief as to the allegation that plaintiff has completed all work required by the construction contracts and related documents and denies the remaining allegations of paragraphs 15 and 16.

5. Denies the allegations contained in paragraphs 17, 18, 19, 21, 22, 26, 27, 28, 29, 30 and 31.

FIRST DEFENSE

6. The complaint fails to state a claim against defendant upon which relief can be granted.

SECOND DEFENSE

7. The building loan agreement made the 18th day of November, 1970 provides, in part, in paragraph (4)(a) thereof

that the Borrower shall make monthly applications on FHA Form No. 2403 for advances of mortgage proceeds from the Lender, that each application shall be filed at least five (5) days before the date the advance is desired, and the Borrower shall be entitled thereon only to such amount as may be approved by the Lender and the Federal Housing Commissioner, referred to therein as the "Commissioner."

8. The defendant has made all advances to the Borrower for which applications were made and which were approved by the Commissioner.

THIRD DEFENSE

9. The building loan agreement provides, in part, in paragraph (4)(e) thereof that the defendant shall, in accordance with the provisions of the agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default thereunder or under the Note or Mortgage executed by the Borrower and referred to in said agreement.

10. The Borrower has been and is in default under the Note and Mortgage in the payment of principal, interest, insurance and other charges in the total amount of $151,316.47.

WHEREFORE, defendant demands judgment dismissing the complaint, together with the costs and disbursements of this action.

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER
Attorneys for Defendant
MANUFACTURERS HANOVER TRUST COMPANY

By: _____
Samuel R. Rudey
A Member of the Firm

Office & P.O. Address
425 Park Avenue
New York, New York 10022
Tel.: (212) 371-5400

B 67

Office and Post Office Address
425 Park Avenue

Attorney(s) for

Defendants

Please take notice that an order

of which the within is a true copy will be presented

for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

Yours, etc.,

Weisman, Celler, Spett, Modlin & Wertheimer

Attorney(s) for

Office and Post Office Address
425 Park Avenue
Manhattan of the City of New York, N. Y. 10022

To

Attorney(s) for

Service of a copy

GOES-CIGELSKOG-LEGAL STATIONERY CO., INC. 68 WHITE ST., N. Y.

B 68

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2264
Rev. 3/69

RENTAL HOUSING
PROJECT INCOME ANALYSIS AND APPRAISAL

☐ Feasibility
☐ Conditional
☒ Firm

Project Name: NOBLE DREW ALI PLAZA I (Moorish Science Houses) Parcel D
Project No.: 012-44002-NP-R

A. LOCATION AND DESCRIPTION OF PROPERTY:

1. Street Nos.	2. Street	3. Municipality	4. County	5. State
Stone, Lott, Hegeman Aves.		Brooklyn	Kings	New York

6. Type of Project	7. No. Stories	8. Check Applicable box(es)	9. Est. Ave. Monthly Rental per Unit
☒ Elevator ☐ Walkup	6	☐ Row ☐ Detached ☐ Semi-detached	$ 159.52 No.

10.	11. No. Units	12. No. Bldgs.	13. List Accessory Buildings or Space:
☒ Proposed ☐ Existing	383 + 2 J.U.	5	None

SITE INFORMATION		BUILDING INFORMATION	
14. Dimensions: ft. by ft., or 192,471. sq. ft.		16. Structural System: Bearing Walls, Wood Joist (Cl. III)	16a. Yr. Built
15. Zoning (If recently changed, submit evidence): R-6		17. Exterior Finish: Brick	18. Heating-A/C System: Steam

B. INFORMATION CONCERNING LAND OR PROPERTY:

19. Date Acquired	20. Purchase Price	21. Additional Cost Paid or Accrued	22. If Leasehold Annual Ground Rent	23. TOTAL COST	24. Relationship-Business, Personal or Other Between Seller & Sponsor
	$ 192,500.	$	$	$ 192,500.	To be acquired from City of New York

25. Utilities - Public / Community
Water ☒ ☐
Sewers ☒ ☐

26. Unusual Site Features -
☐ Cuts ☐ Fills ☐ Rock Formations ☐ Erosion
☐ Poor Drainage ☐ High Water Table ☐ Retaining Walls
☐ Other (Specify) _____ ☐ None

C. ESTIMATE OF INCOME

27. No. of Each Family Type Unit	Living Area (Sq. Ft.)	Composition of Units	Unit Rent Per Month	Total Monthly Rent For Unit Type
87	534	LR-DA, K 1-BR	$ 133.00	$ 11,571.
185	673	LR-DA, K 2-BR	157.00	29,045.
60	858	LR-DA, K 3-BR **	179.00	10,740.
51	1,189	LR-DA, K 4-BR ***	191.00	9,741.
* ½-additional B.				
** 1-additional B.				
		TOTAL		$ 61,097.

Post 12: 30.91

28. No. Parking Spaces-		
☐ Attended ☒ Self Park	Open Spaces 193 @ $ _____ per month	
	Covered Spaces _____ @ $ _____ per month	
30. Commercial	Area-Ground Level 9,300. Sq. Ft. @ $ .25 per sq. ft./mo.	2,325.
	Other Levels 9,300. Sq. Ft. @ $ - per sq. ft./mo.	
31.	TOTAL ESTIMATED GROSS PROJECT INCOME AT 100% OCCUPANCY	$ 63,422.
32.	TOTAL ANNUAL RENT (Item 31 x 12 months)	$ 761,064

33. Gross Floor Area-	34. Net Rentable Residential Area-	35. Net Rentable Commercial Area-
390,521. Sq. Ft.	283,047 Sq. Ft.	18,600. Sq. Ft.

36. NON-REVENUE PRODUCING SPACE

Type of Employee	No. Rms.	Composition of Unit	Location of Unit in Project
Supt.		LR-DA, K, 2-BR	Ground Floor

D. EQUIPMENT AND SERVICES INCLUDED IN RENT: (Check appropriate items)

37. EQUIPMENT-
☒ Ranges (Gas or Elec.) ☒ Kitchen Exhaust Fan ☒ Laundry Facilities
☒ Refrigerators (Gas or Elec.) ☐ Disposal ☐ Dishwasher
☐ Drapes ☐ Carpet
☒ Other (Specify) A/C Sleeves & Outlet in LR & BR. 3-gas fired boilers w/oil interrupted system #2 oil. Commercial will have its own package unit.

38. SERVICES-
☒ Gas ☒ Electricity
☒ Heat ☐ Air Conditioning
☐ Cooking Fuel (Specify) _____
☐ Other (Specify) _____

39. SPECIAL ASSESSMENTS:
(a) ☐ Prepayable ☐ Non-Prepayable
(b) Principal Balance $ _____
(c) Annual Payment $ _____
(d) Remaining Term _____ Years

E. ESTIMATE OF ANNUAL EXPENSE:

ADMINISTRATIVE–

1. Advertising		
2. Management		
3. Other		
4. TOTAL ADMINISTRATIVE		

OPERATING–

5. Elevator Main. Exp.		
6. Fuel (Heating and Domestic Hot Water)		
7. Lighting & Misc. Power		
8. Water		
9. Gas		
10. Garb. & Trash Removal		
11. Payroll		
12. Other		
13. TOTAL OPERATING		

MAINTENANCE–

14. Decorating		
15. Repairs		
16. Exterminating		
17. Insurance		
18. Ground Expense		
19. Other		
20. TOTAL MAINTENANCE		38,342.
21. Replacement Reserve (.0060 x total structures Line 41)		328,321.
22. TOTAL OPERATING EXPENSE		

TAXES–

23. Real Estate: Est. Assessed Value $ @ $ per $1000	68,791	10% Gross Shelter Rent
24. Personal Prop. Est. Assessed Value $ @ $ per $1000		
25. Empl. Payroll Tax	Incl. above.	
26. Empl. Social Security		
27. Other		
28. TOTAL TAXES		
29. TOTAL EXPENSE	397,112.	

F. INCOME COMPUTATIONS:

30. Estimated Project Gross Income (Line C 32 Page)	761,034.	
31. Occupancy (Entire Project) Percentage	95%	%
32. Effective Gross Income (Line 30 x Line 31)	723,011.	
33. Total Project Expenses (Line 29)	397,112.	
34. Net Income to Project (Line 32 – Line 33)	325,899.	
35. Expense Ratio (Line 29 ÷ Line 32)	54.9%	%

G. ESTIMATED REPLACEMENT COST:

36a. Unusual Land Improvements	100,000.	
36b. Other Land Improvements	336,079.	
36c. Total Land Improvements		436,079.

STRUCTURES–

37. Main Buildings	5,390,259.	
38. Accessory Buildings		
39. Garages		
40. All Other Buildings		
41. TOTAL STRUCTURES		5,390,259.
42. General Requirements		403,011.
		6,826,338.

FEES–

43. Builder's Gen. Overhead @ %	106,800.	
44. Builder's Profit @ %	284,521.	
45. Arch. Fee-Design @ %	112,676.	
46. Arch. Fee-Supvr. @ %	37,183.	
47. Bond Premium	76,526.	
48. Other Fees	19,131.	
49. TOTAL FEES		636,837.
50. TOT. For all Imprmts. (Lines 36c, 41, 42 & 49)		7,866,216.
51. Cost Per Gross Sq. Ft.		
52. Estimated Construction Time	24	Months

CARRYING CHARGES & FINANCING–

53. Int. 25 Mos. @ 8½% on $ 5,048,000.	929,670.	
54. Taxes	–	
55. Insurance	126,081.	
56. FHA Mtg. Ins. Pre. (3.5%)	151,440.	
57. FHA Exam. Fee (0.3%)	30,288.	
58. FHA Inspec. Fee (0.5%)	50,480.	
59. Financing Fee (2 %)	201,920.	
60. AMPO (2 %)	201,920.	
61. FNMA Fee (1.75% ($10,096,000.)	176,680.	
62. Title & Recording	50,480.	
63. TOTAL CARRYING CHGS. & FINANCING		1,918,959.

LEGAL AND ORGANIZATION–

64. Legal	15,000.	
65. Organization	22,000.	
66. TOTAL LEGAL AND ORGANIZATION		37,000.
67. Consultant Fee		–
68. Builder and Sponsor Profit & Risk		
69. TOTAL EST. DEVELOPMENT COST (Excl. of Land or Off-site Cost) (Line 50+63+66+67+68)		9,822,175.
70. LAND (Est. Market Price of Site) sq. ft. @ $ per sq. ft.		273,825.
71. TOTAL ESTIMATED REPLACEMENT COST OF PROJECT (Add 69 + 70)		10,096,000.

H. TOTAL REQUIREMENTS FOR SETTLEMENT:

72. DEVELOPMENT COST (Section G Line 69)	9,822,175.	
73. LAND INDEBTEDNESS (or Cash required for land acquisition)	192,500.	
74. SUBTOTAL (Line 72 + Line 73)	10,014,675.	
75. Mortgage Amount 10,096,000.		
76. Fees Paid by Other than Cash $ –	10,096,000.	
77. Line 75 + Line 76		
78. CASH INVEST. REQUIRED (Line 74 – Line 77)	(81,325).	
79. INITIAL OPERATING DEFICIT	–	
80. ANTICIPATED DISCOUNT	–	
81. WORKING CAP. (2% of Mtge. Amount)	(AMPO)	
82. ADD Off-site Construction Costs	81,325.	
83. TOTAL ESTIMATED CASH REQUIREMENT Lines 78 + 79 + 80 + 81 + 82	– 0 –	

Source of Cash to Meet Requirements:	Amount
Non-Profit 100% mortgage.	
(Seed Money from New York City and New York State).	
TOTAL	

I. ESTIMATE OF OPERATING DEFICIT:

Periods	Gross Income	Occup. %	Effec. Gross	Expenses	Net Income	Debt Serv. Reqmt.	Deficit
84. 1st		%					
85. 2nd		%					

87. (a) Rent Formula Maximum Per Month	$61,097.				86. TOTAL OPERATING DEFICIT	
(b) Monthly Adm. Rent Limits	$ 133.00	$ 157.00	$ 179.00	$ 191.00		
	(1-BR)	(2-BR)	(3-BR)	(4-BR)		

J. PROJECT SITE ANALYSIS AND APPRAISAL:

1. Is Location and Neighborhood Acceptable ---------- [X] YES [ ] NO
2. Is Site Adequate in Size for Proposed Project ---------- [X] YES [ ] NO
3. Is Site Zoning Premissive for Intended Use ---------- [X] YES [ ] NO
4. Are Utilities Available Now to Serve the Site ---------- [X] YES [ ] NO
5. Is there a Market at this Location for the Units at the proposed rents ---------- [X] YES [ ] NO

6. [X] Site Acceptable for type of Project Proposed under Section 236
   [ ] (If checked, acceptance subject to qualifications listed below) -
7. [ ] Site not acceptable for reasons stated below.

Date of Inspection: March 12, 1970

By: Eugene P. Koenig

8. VALUE FULLY IMPROVED: LOCATION OF PROJECT: L.U.I. NUMBER SIZE OF SUBJECT SITE: 192,471 Sq. Ft.

COMPARABLE SALES ADDRESS	Date of Sale	Sales Price	Size Sq. Ft.	Price per Sq. Ft.	Units Per Acre	Price per Unit	ADJUSTMENTS (%) Time	Location	Zoning	Plottage	Demolition	Piling, Etc.	Other	Total Adjust Factor	Adjust Sq. Ft. Price	Indicated Value by Comparison
s/o E,98St.140's/oChurch	3/30/67	$200,000	51,500	$3.88	176	1,724.	110	70	-	105	-	-	-	81	$3.14	603,253.
)0' w/o swc 5th Av.& 9th St	/27/65	$236,000	69,034	3.42	153	1,542.	115	60	-	105	-	-	-	72	2.46	472,613.
[illegible]e Av.,RockawayA.,DeanSt.	9/14/65	$977,000	339,650	2.86	722	1,346	115	-	-	-	-	-	-	115	3.29	632,072.
o Shore Pkwy/o/tBrighamtc.	12/16/68	$121.545.	32,558.	3.73	45	2,701	105	60	120	105	-	-	-	79	2.95	566,751.
-N25-Surf&Rigelman Ave.	6/1/65	$569,952.	134,432.	4.23	380	1,500.	115	60	-	-	-	-	-	69	2.92	560,987.

Remarks:

9. Value of Site Fully Improved: $ 550,000.
$2.86/sq.ft.

70

10. VALUE "AS IS"

		Ft./Acres											

11. Value of Site "As Is" by Comparison: $

12. ACQUISITION COST: (Last Arms-Length Transaction)
Buyer Moorish Science Address
Seller New York City Address
Date Future Price $ $192,500.
Source

13. OTHER COSTS:

Legal Fees and Zoning Costs	
Recording and Title Fees	
Interest on Investment	
Other Off-Site	31,325.
Acquisition Cost (From "12" Above)	195,500.
Total Cost to Sponsor	$ 223,825.

14. VALUE OF LAND AND COST CERTIFICATION:

(1)	Fair Market Value of Land fully improved (From "9" above)	550,000.
(2)	Deduct unusual items included in Section G, item 36a	-
(3)	Warra[illegible]	$ 273,825.
	FOR COST CERTIFICATION PURPOSES -	
(3)(a)	Deduct cost of demol. $ ____ and req'd off-sites $ ____ to be paid by Mtgor. or by special assessments	81,325.
(4)	Estimate of "As Is" by subtraction from improved value	192,500.
(5)	Estimate of "As Is" by direct comparison with similar unimproved sites (From "11" above)	-
(6)	"As Is" based on acquisition cost to sponsor (From "13" above)	-
(7)	Commissioner's estimated value of land "As Is" (The lesser of 4 or 5 above)*	$ 273,825. $192,500.

*Where land is purchased from LPA or other Governmental authority for specific reuse lesser of 4, 5 or 6.

Remarks: Land to be acquired from the City of New York . Land Value will exceed Disposition Price to Sponsor. Price includes $81,325. off-site c

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K. INCOME APPROACH TO VALUE:

1. Estimated Remaining Economic Life _____ Yrs.
Income Approach to Value:
2. Capitalization Rate Determined By: ☐ Overall Rate From Comparable Projects.
☐ Rate From Band of Investment or Summation *(Provision for Recapture Must be Added).*
3. Rate Selected _____ %
4. Net Income *(Line F 34)* - - - - - - - - - - $ _____ N/A
5. Capitalized Value *(Line 4 ÷ Line 3)* - - $ _____

6. Value of Leased Fee *(If any)*
Ground Rent $ _____ ÷ Cap. Rate ____ %
= Value of Leased Fee $ _____ N/A

L. COMPARISON APPROACH TO VALUE:

7. Address of Comparable Sale	Date	Sale Price	No. Units				
a.							
b.							
c.							

8. Indicated Value of Subject by Comparison $ N/A

APPRAISAL SUMMARY

9. CAPITALIZATION $ N/A SUMMATION $ 10,096,000. COMPARISON $ N/A

The fair market value (or replacement cost) of the property, as of the date below, is $ 10,096,000.

M. TO BE COMPLETED BY CONSTRUCTION COST ANALYST:

COST NOT ATTRIBUTABLE TO DWELLING USE-

10. Parking - $	67,550.
11. Garage -	
12. Commercial -	241,180.
13. Special Ext. Land Improvements - - - - - - - - - - -	
14. Other -	
15. TOTAL - $	308,730.
	4.536% %

TOTAL EST. COST OF OFF-SITE REQUIREMENTS-

16. Off-Site	Est. Cost
Sidewalk	$ 22,000.
Curbs	4,575.
Trees	4,750.
Sewer	50,000.
17. TOTAL OFF-SITE COSTS- - $	81,325.

N. TO BE COMPLETED BY VALUATION SECTION:

CALCULATION OF BUDGETED CONSTRUCTION COST-

18. Maximum Mortgage Amount (from 2264a) ÷ 90% or × 100% - - - - - - - - - - - - - - - - $ *(Whichever is Appropriate)*	
19. FHA Land Value *(Line G 70)* $	
20. Carrying Charges and Fin. - -	N/A
21. Legal and Organization - - -	
22. Consultant Fee - - - - - - - -	
23. Design Architect - - - - - - -	
24. Supervisory Architect - - - -	
25. Bond Premium - - - - - - - - -	
26. Other Fees - - - - - - - - - -	
27. TOTAL 19 THRU 26 - DEDUCT - - - - - - - - $	
28. Balance available for construction this includes builder's fee of $ _____ or Bldrs. Ovhd. & BSPRA of $ _____ $	

O. REMARKS, CONCLUSIONS AND SIGNATURES:

Remarks - Cost does include removing existing sewer and utilities lines in Watkins Street.
Off-site cost included the new sewer work as shown on drawing to be off site.
No Change Orders will be accepted with any increase in cost for any of the above items.
Real Estate taxes 10% gross shelter rents per Article XI Private Housing Finance Law.

HDA Rent Limitations Inc. in the processing per Chief Underwriter's Memorandum dated 6/29/70.

Marvin Elliott — 7/21/70 (Date) — Marvin Elliott (Architectural Reviewer)
(Architectural Processor)

Elliott Macco — 7/21/70 (Date) — [illegible]
N/C Proc.

Elmer F. Koenig — 7/17/70 (Date) — Chas. F. Kartuz — Val.Proc.
Val. Proc.

James Mullady — 7/14/70 (Date) — [illegible]
(Cost Processor)

Conclusions:

[illegible] — 7/21/70 (Date)
(Coordinator)

U. S. GOVERNMENT PRINTING OFFICE : 1968 O - 339-407

LOCATION NOBLE DREW ALI [illegible]A I (Scottish Science Houses) Parcel D

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SECTION 236 - RENT FORMULA

Determination of Basic Rent

1.	Replacement Cost (Form 2264, Line 71, Section G).	$ 10,096,000.
2.	Net Income (Line 1 x 3.228 % Rent Formula Rate) (Rate at which Total Cost must earn Net Income)	325,899.
3.	Project Expenses including Taxes and Replacement Reserve	397,112.
4.	Adjusted Gross Basic Income (Line 2 + Line 3)	723,011.
5.	Gross Basic Rent (Line 4 Divided by .95 % Occupancy Ratio) (Income from all sources to be entered in C-32, Form 2264)	761,064.
6.	Commercial Income - Annual	27,900.
7.	Residential Basic Annual Rent (Line 5 - Line 6) (For Cooperatives, enter Line G-39, Form 2264B)	733,164.
8.	Residential Basic Monthly Rent (Line 7 divided by 12) (Enter in Line 87a Section I of Form 2264) (for cooperatives, take this entry from Line G-40).	61,097.

Determination of Market Rent

9.	Subsidy (Mortgage x 6.2604 % Subsidy Rate)	$ 632,050.
10.	Residential Market Annual Rent (Line 7 + Line 9)	1,365,214.
11.	Residential Market Monthly Rent (Line 10 divided by 12)	$ 113,767.83
12.	Market Rent Ratio (Line 10 ÷ Line 7) 1.86208542 (Use this ratio as a multiplier to convert basic residential unit rents to market residential rents).	
13.	Total Annual Rent From All Sources (Line 6 + Line 10)	$ 1,393,114.

Mortgage Amount

14.	Replacement Cost 10,096,000. x Loan Ratio 100% % equals Mortgage Amount.	$ 10,096,000.

Cooperatives omit entries in Lines 1 through 5.

ECONOMIC TEST FOR COMMERCIAL

1. Commercial Income $ 27,900.
2. Vacancy (15) $ 4,185.
3. Effective Gross To Commercial $ 23,715.
4. Less Commercial Expense .60/sq.ft. $ 5,580.
5. Commercial Net Income $ 18,135.

COST OF COMMERCIAL

6. Cost Attributable to Commercial — Total For All Improvements (Line M-12 ÷ Line G-50).

$ 241,180 ÷ $ 7,866,216. = 3.07 %

7. This percentage applied to Total Cost of Project (Line G-71 x Line 6 of the 2264) equals cost of commercial.

$ 10,096,000. x 3.07% % = $ 309,947.

8. Debt Service on level annuity

Interest + MIP + Curtail

1.0% % + - % + 2.034273 % + 3.034273% %

TEST

9. Cost of commercial (line 7) times the Debt Service Rate (line 8) equals the minimum commercial Net Income.

$ 309,947. x 3.034273% % = $ 9,405.

SECTION 236 SUPPLEMENT
TO FORM 2264

(1) Market Rents:

(a) No. of Units (From C 27)	(b) Unit Type (From C 27)	(c) Unit Basic Rent Per Month (From C 27	(d) Market Rent Ratio (From Line 12 Rent Formula)	(e) Unit Market Rent Per Month (Col. c x Col.d)	(f) Total Market Rent Per Month (Col. a x Col.
87	1-BR	133	1.86208542	247.65	21,545.55
185	2-BR	157		292.35	54,084.75
60	3-BR	179		333.3	19,998.60
51	4-BR	191		355.66	18,138.66
(g) Estimated Total Residential Market Monthly Rent*					113,767.56

* This total should approximately equal Line 11 in Rent formula. If difference (due to rounding) is less than one dollar, do not adjust either number.

(2) Income Limits:

(a) Unit Type	(b) Basic Rent For Subject (Col. 1c)	(c) Income Necessary to Pay Basic Rent (Basic rent x 18).	(d) Regular Income Limits For Section 236 (Adjusted-Income)	(e) No. of Persons In Family
1-BR	133.	$6,384.	$7,095.	2
2-BR	157.	7,536.	7,780.	4
3-BR	179.	8,592.	10,095.	6
4-BR	191.	9,168.	10,666.	8

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FHA FORM NO. 2264-A
Rev. September 1964

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

SUPPLEMENT TO PROJECT INCOME ANALYSIS AND APPRAISAL
MULTIFAMILY HOUSING
SECTION 236

FIRM

Name of Project Noble Drew Ali Plaza I Project No. 012-44002-MF-P

LOCATION Stone, Iott, Hegeman Aves. (Street) Brooklyn (City) New York (State)

I. DETERMINATION OF MAXIMUM INSURABLE MORTGAGE

Type of Mortgagor:
[x] Private; [ ] Profit; [x] Non-Profit; [ ] State or Federal Instrumentality, etc.

Type of Project:
[x] Rental Housing
[ ] Mobile Home Court
[ ] Housing for the Elderly
[ ] Nursing Home
[ ] Condominium

[x] New Construction
[ ] Rehabilitation
[ ] Redevelopment

[ ] Walk up
[x] Elevator (6 Sty.)
[ ] (5 bldgs.) 385 units

CRITERIA	(Col. 1)	(Col. 2)	(Col. 3)
1. Mortgage amount stated in application			$
2. Statutory dollar limit (less value of leased fee)			$ 12,500,000
3. Amount based on value or replacement cost:			
a. Value (Replacement Cost) of property in fee simple $ 10,096,000 X 100 %		$ 10,096,000	
b. Value of leased fee, if leasehold	$ x		
c. Principal amount of special assessments, if any	$ x		
d. Total (Item b plus Item c)		$ x	
e. Item a minus Item d			$ 10,096,000
4. Amount based on sum of unit mortgage amounts			$ x
5. Amount based on limitation as to debt service ratio:			
a. Mortgage interest rate	%		
b. Mortgage insurance premium	%		
c. Mortgage amortization first year	%		
d. Sum of above items		%	
e. Net income $ X %		$	
f. Annual ground rent	$		
g. Annual special assessments	$		
h. Item f plus Item g		$	
i. Item e minus Item h		$	
j. Item i divided by Item d			$ x
6. Amount based on limitation per family unit: Elevator Limits			
a. Total number of spaces - X $ -	$ -		
b. Number of no bedroom units - X $ -	$ -		
Number of one bedroom units 87 X $ 22,511	$ 1,958,457		
Number of two bedroom units 187 X $ 26,690	$ 4,989,560		
No. of three or more bdrm. units 60 X $ 33,350 (conv. bdrm. limit 57) 37,934	$ 2,001,000 1,934,634		
c. Cost not attributable to dwelling Use $ 445,534 X 100 %	$ 445,534		
d. Item a, or sum of Items b and c		$ 11,328,785	
e. Sum of value of leased fee and special assessments (from Item d, Criterion 3)		$ -	
f. Item d minus Item e			$ 11,328,700
7. Amount based on estimated cost of rehabilitation plus (i) fair market price of, or (ii) acquisition cost of, or (iii) existing indebtedness against property before rehabilitation:			
a. Estimated cost of new on-site improvements	$		
b. Estimated cost of new off-site construction	$		
c. Total carrying charges, financing	$		
d. Total legal and organization	$		
e. Sum of Items a through d, inclusive		$ x	
f. Fair market price of property before rehabilitation $ X %	$		
g. Purchase price of property or Existing indebtedness	$		

	(Col. 1)	(Col. 2)	(Col. 3)
h. Item e plus Item f or Item g, whichever is lesser		$	
i. Item h X _____ %			$ x
8. Amount based on cost of new improvements:			
a. Estimated cost of new improvements $ ____ X _____			$ x
9. Amount based on estimated cost to mortgagor:			
a. Total estimated cost (exclusive of site and required construction off the site)	$		
b. Purchase price of site	$		
c. Total cost of clearing site, if any,	$		
d. Expense of relocating occupants, if any,	$		
e. Cost of off-site construction, if any	$		
f. Sum of Items a through e		$	
g. Item f X _____ %		$	
h. Value of leased fee, if leasehold		$	
i. Item g minus Item h			$ x
10. Amount based on mortgagor's total cost of acquisition:			
a. Purchase price of project	$		
b. Repairs and improvements, if any	$		
c. Total carrying charges, financing	$		
d. Sum of Items a through c		$	
e. Item d X ____ %.			$ x

MAXIMUM INSURABLE MORTGAGE (Lowest of the foregoing criteria) #3 $ 10,096,000

II. ESTIMATED REQUIREMENTS FOR COMPLETION OF THE PROJECT

(a) FHA total estimated cost exclusive of land (and required construction off the site) $ 2,822,175

(b) Less mortgage loan proceeds $ 10,096,000

(c) Amount required for completion of the project $ -0-

(d) Builder's and architect's fees included in FHA total estimated cost $ 327,127 . Amount to be escrowed at closing may be reduced by so much of such fees as are to be paid by means other than cash.

(e) In addition to above requirements land to be free and clear of encumbrances; additional cash to be escrowed at closing in event cash required by contract documents exceeds cash required based on FHA estimates(Item (a) less amount of fees to be paid by means other than cash); cash working capital of $ (None) to be escrowed at closing, and provision to be made for off-site requirements estimated to cost $ 81,325 (Form 2412).

III. ANALYTICAL SUMMARY

1. Ratio: Loan $ _____ to Value (Replacement Cost) $ _____ _____ %
2. Ratio: Debt service requirements $ _____ to estimated net income $ _____ _____ %
3. Ratio: Total operating expenses and taxes $ _____ to gross income expectancy $ _____ _____ %
4. Point of technical default: _____ _____ %

REMARKS Processed for Firm Commitment in Fee Simple under Section 236 of HUDA. New Construction. Property to be acquired.

Date JUL 24 1970 (Signed) _____
Mortgage Credit Examiner

Date JUL 24 1970 (Approved) (Signed) _____
☒ Chief Mortgage Credit Examiner.
☐ Deputy for Chief Mortgage Credit Examiner.

FHA FORM NO. 2441
(Rev. 9/68)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

BUILDING LOAN AGREEMENT

THIS AGREEMENT, made the 18th day of November 1970, by and between Brownsville Housing Development Fund Corporation, a corporation organized and existing under the laws of New York, with an office and place of business in Brooklyn, County of Kings, and State of New York (hereinafter called the "Borrower"), and Manufacturers Hanover Trust Company, a corporation organized and existing under the laws of New York, having an office and place of business in New York, County of New York and State of New York (hereinafter called the "Lender"). WHEREAS, the Borrower as the owner in fee of the premises described in Exhibit "A" hereto attached and made a part hereof has applied to the Lender for a mortgage loan of $10,096,000.00 of which $273,825 is given as reimbursement to the Mortgagor for the land acquisition cost, $37,000 is given as reimbursement for legal and organization expense, and $201,920 represents MPO, and the balance, $9,583,255. to be advanced pursuant to the terms hereof to aid the Borrower in the construction on said property of a project (identified as FHA Project No. 012-44002) in accordance with Drawings and Specifications hereinafter referred to; and

WHEREAS, the Borrower understands that the Lender has received a commitment from the Federal Housing Commissioner (hereinafter called the "Commissioner") for insurance of said loan under the provisions of the National Housing Act and intends upon execution of the hereinafter-mentioned Note and Mortgage to have said Note endorsed for insurance by the Commissioner.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set out and of other valuable considerations, the undersigned agree as follows:

(1) The Lender shall make and the Borrower shall take a building loan in the principal sum of Ten Million Ninety-Six Thousand and no/100---------- Dollars ($ 10,096,000.00), to be advanced as hereinafter provided, and to bear interest from the date of each advance at the rate of Eight and one-half percent (8 1/2 %) per annum. Said loan shall be evidenced by a credit instrument (hereinafter called the "Note") dated the 18th day of November 1970, shall be payable in monthly installments, and shall have a maturity date of November 1, 2013. Said Note shall be executed by the Borrower and payable to the Lender, or order, and shall be secured by a Mortgage (hereinafter called the "Mortgage"), of even date, on the property described in Exhibit "A". The Mortgage shall constitute a valid first lien on said property and the improvements to be erected thereon, and the only lien thereon except for liens for taxes and assessments not yet payable and other liens acceptable to the Lender and the Commissioner.

(2) The Borrower shall complete on the aforesaid property, by December 18 1972, a project in accordance with Drawings and Specifications filed with the Commissioner and designated Noble Drew Ali Plaza I

FHA Project No. 012-44002, dated January 30, 1970. Such Drawings and Specifications, which include "General Conditions of the Contract for Construction" (AIA Document A201) and "Supplementary Conditions of the Contract for Construction" (FHA Form No. 2554), have been identified by the Borrower, the Design Architect, the Architect administering the Construction Contract (hereinafter called the "Architect"), the Contractor and the Contractor's Surety.

(3) Changes in the Drawings and Specifications, or changes by altering or adding to the work contemplated, or orders for extra work must have the prior written approval of the Architect. In addition, any such change or order which will result in a net construction cost increase, or will change the design concept, or will result in a net cumulative construction cost decrease of more than 2% of the contract amount may be effected only with the prior written approval of the Lender and the Commissioner and under such conditions as either the Lender or the Commissioner may establish.

(4) (a) The Borrower shall make monthly applications on FHA Form No. 2403 for advances of mortgage proceeds from the Lender. Applications for advances with respect to construction items shall be for amounts equal to (i) the total value of classes of the work acceptably completed; plus (ii) the value of materials and equipment not incorporated in the work, but delivered to and suitably stored at the site; less (iii) 10 percent (holdback) and less prior advances. The "values" of both (i) and (ii) shall be computed in accordance with the amounts assigned to classes of the work in the "Contractor's and/or Mortgagor's Cost Breakdown", attached hereto as Exhibit "B", and made a part hereof. Each application shall be filed at least 5 days before the date the advance is desired, and the Borrower shall be entitled thereon only to such amount as may be approved by the Lender and the Commissioner.

(b) Upon completion of the improvements, including all landscape requirements and off-site utilities and streets, the Borrower shall furnish to the Lender and the Commissioner satisfactory evidence that all work requiring inspection by municipal or other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and by the rating or inspection organization, bureau, association or office having jurisdiction; and that all requisite certificates of occupancy and other approvals have been issued. The balance due the Borrower hereunder shall be payable at such time after completion as the commissioner authorizes the release of the holdback. However, the Lender may withhold final payment until after the expiration of any period which mechanics and materialmen may have for filing liens.

(c) The Borrower agrees that any funds required for the completion of the project over and above the proceeds of the loan which have been deposited with the Lender for that purpose shall be advanced by the Lender to the Borrower prior to the advance of any proceeds of the loan.

(d) The Borrower covenants that it will hold in trust each advance hereunder for application to the items for which such advance was requested and approved.

(e) The Borrower agrees that the loan shall at all times remain in balance. The Lender shall, in accordance with the provisions of this agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default hereunder or under the Note or Mortgage. The loan shall be deemed to be in balance only when the undistributed proceeds of the loan (after provision for reserves, fees, expenses and other deposits required by the Lender or the Commissioner) equal or exceed the amount necessary (based on the Commissioner's estimate of the cost of construction) to pay for all work completed and all materials delivered, for which payment has not been made, and the cost of completing construction of the project in accordance with the Drawings and Specifications.

(5) The Lender shall advance to the Borrower out of the funds referred to in (4)(c) above, or out of the proceeds of the loan, amounts for application to the charges or items enumerated below, but only to the extent that such charges have accrued, or that the Borrower is otherwise entitled to payment on account of such items.

(a)	Interest during construction	$ 929,670
(b)	Real estate taxes during construction	$
(c)	Insurance during construction	$ 126,081
(d)	FHA mortgage insurance premium	$ 151,440
(e)	FHA examination fee	$ 30,288
(f)	Initial service charge	$ 201,920
(g)	Title and recording expense	$ 50,480
(h)	Inspection fee	$ 50,480
(i)	Other Fees	$ 19,131
(j)	Archicect's Fee	$ 149,859
(k)	FNMA Fee	$ 176,680

(6) The Borrower shall cause either this instrument or the construction contract under which the improvements are to be erected to be filed in the public records, if the effect thereof will be to relieve the mortgaged property from mechanics' and materialmen's liens. Before any advance hereunder, the Lender may require the Borrower to obtain from the contractor and all subcontractors and materialmen dealing directly with the principal contractor acknowledgments of payment and releases of lien down to the date covered by the last advance, and concurrently with the final payment for the entire project. Such acknowledgments and releases shall be in the form required by local lien laws and shall cover all work done, labor performed and materials (including equipment and fixtures) furnished for the project.

(7) The Borrower shall, as a condition precedent to the first advance hereunder, furnish the Lender with a certified, current survey of the mortgaged property and a mortgagee's title policy (or other evidence of title) in form, substance and amount satisfactory to the Lender and the Commissioner. Said policy (or other title evidence) shall be extended so as to cover each and every advance of said loan at the time of payment thereof and shall show no mechanics' or materialmen's liens against the mortgaged property. The Borrower shall furnish duplicate originals of said survey and title policy (or title evidence) for the Commissioner.

(8) The Borrower agrees that said project shall be constructed strictly in accordance with all applicable ordinances and statutes, and in accordance with the requirements of all regulatory authorities, and any rating or inspection organization, bureau, association or office having jurisdiction. The Borrower further agrees that said project shall be constructed entirely on the aforesaid property and will not encroach upon any easement or right-of-way, or the land of others; and that the buildings when erected shall be wholly within the building restriction lines, however established, and will not violate applicable use or other restrictions contained in prior conveyances, zoning ordinances or regulations. The Borrower shall furnish from time to time such evidence with respect thereto as may be required by the Lender or the Commissioner and, upon completion of construction, shall furnish a survey, certified by a registered surveyor, which shows the project to be entirely on said property and to be free from any such violations.

(9) If the Borrower at any time prior to the completion of the project abandons the same or ceases work thereon for a period of more than 20 days or fails to complete the erection of the project strictly in accordance with the Drawings and Specifications, or makes changes in the Drawings and Specifications without first securing the written approval required by paragraph 3 hereof, or otherwise fails to comply with the terms hereof, any such failure shall be a default hereunder, and the Lender, at its option, may terminate this agreement. If the Lender so elects to terminate this agreement, it may use and apply any funds deposited with it by the Borrower, regardless of the purpose for which such funds were deposited, in such manner and for such purposes as the Commissioner may prescribe. If the Lender elects not to terminate this agreement, it may enter into possession of the premises and perform any and all work and labor necessary to complete the improvements substantially according to the Drawings and Specifications, and employ watchmen to protect the premises from injury. All sums so expended by the Lender shall be deemed to have been paid to the Borrower and secured by the Mortgage. For this purpose, the Borrower hereby constitutes and appoints the Lender its true and lawful attorney-in-fact, with full power of substitution in the premises, to complete the project in the name of the borrower. The Borrower hereby empowers said attorney as follows: (a) To use any funds of the Borrower, including any balance which may be held in escrow and any funds which may remain unadvanced hereunder for the purpose of completing the project in the manner called for by the Drawings and Specifications; (b) to make such additions, changes and corrections in the Drawings and Specifications as shall be necessary or desirable to complete the project in substantially the manner contemplated by the Drawings and Specifications; (c) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for said purposes; (d) to pay, settle or compromise all existing bills and claims which may be liens against the mortgaged property, or as may be necessary or desirable for the completion of the project, or for clearance of title; (e) to execute all applications and certificates in the name of the Borrower which may be required by any of the contract documents; (f) to prosecute and defend all actions or proceedings in connection with the mortgaged premises or the construction of the project and to take such action and require such performance as he deems necessary under the accepted guaranty of completion; and (g) to do any and every act which the Borrower might do in its own behalf. It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. The Borrower hereby assigns and quitclaims to the Lender all sums unadvanced under the Mortgage and all sums due in escrow conditioned upon the use of said sums for the completion of the project, such assignment to become effective only in case of the Borrower's default.

(10) The Borrower shall provide or cause to be provided workmen's compensation insurance and public liability and other insurance required by applicable law or by the general conditions included in the Specifications. The Borrower further agrees to purchase and maintain fire insurance and extended coverage on the mortgaged property. All such policies shall be issued by companies approved by the Lender and shall be in form and amounts satisfactory to the Lender and the Commissioner. Such policies shall be endorsed with standard mortgagee clauses making loss payable to the Lender or its assigns; and may be endorsed to make loss during construction payable to the Contractor, as interest may appear. The originals of such policies shall be deposited with the Lender.

(11) The Lender and its agents and the Commissioner and his agents shall, at all times during construction, have the right of entry and free access to the project and the right to inspect all work done, and materials, equipment and fixtures furnished, installed or stored in and about the project, and to inspect all books, subcontracts and records of the Borrower.

(12) The Borrower shall execute and deliver to the Lender, upon completion of the project, a security agreement and financing statement, or other similar instrument, covering all property of any kind whatsoever purchased with mortgage proceeds and concerning which there may be any doubt as to such property's being subject to the lien of the Mortgage under the laws of the state in which the project is situated.

(13) The Borrower shall furnish to the Lender assurance of completion of the project in the form specified in the applicable FHA Regulations in effect on the date of this agreement. Such assurance of completion shall run to the Lender as obligee and shall contain a provision granting to the Lender the authority to assign all rights thereunder to the Commissioner.

(14) (a) The Borrower understands that the wages to be paid laborers and mechanics employed in the construction of the project are required by the provisions of Section 212(a) of the National Housing Act, as amended, to be not less than the prevailing wage rates for corresponding classes of laborers and mechanics employed on construction of a similar character in the locality in which the work is to be performed, as determined by the Secretary of Labor with respect to this project. The Borrower hereby states that it has read the aforesaid determination by the Secretary of Labor and is fully familiar with the same.

(b) The Borrower shall, as a condition precedent to any advance hereunder, submit to the Lender (i) with each application for advance prior to the final application, certifications, in form approved by the Commissioner, that all laborers and mechanics employed in the construction of the project whose work is covered by that or any previous application and who have been paid in whole or in part on account of said employment, have been paid at rates not less than the said prevailing wage rates; and (ii) with the final application for advance, certifications, in form satisfactory to the Commissioner, that the project has been fully constructed in accordance with the provisions of this agreement and that all laborers and mechanics employed in the construction of the completed project have been paid not less than the said prevailing wage rates. The Secretary's prevailing wage determination shall be construed to include every amendment to or modification of the determination which may be made prior to the beginning of construction.

(c) The Borrower agrees that should any advances hereunder be ineligible for insurance under the National Housing Act by reason of (i) the nonpayment of the said prevailing wage rates, or (ii) violation of any of the applicable labor standards provisions of the Regulations of the Secretary of Labor, the Lender may withhold from the Borrower all payments or advances payable to the Borrower hereunder until the Borrower establishes to the satisfaction of the Commissioner that all laborers and mechanics or other persons employed in the construction of the

project have been paid said prevailing wage rates and that such violation of the said Labor Standards provisions no longer exists. The written statement of any officer of the Federal Housing Administration or authorized agent of the Commissioner declining to insure any advance of funds hereunder by reason of such non-payment or violation shall be deemed conclusive proof that such advances are ineligible for mortgage insurance.

(d) The Borrower shall insert the labor standards provisions of the aforesaid Supplementary Conditions of the Contract for Construction in any contract made by him for the construction of the project, or any part thereof, and shall require the Contractor to insert similar provisions in each subcontract relating to the construction of the project.

(15) The Lender and the Borrower agree that the mortgage loan shall be reduced by any amount required by the Agreement and Certification (FHA Form No. 3305) between the parties hereto and the Commissioner, which agreement is incorporated herein by reference to the same extent as if set forth herein at length.

(16) The Borrower shall furnish such records, papers and documents relating to the project as the Lender or the Commissioner may reasonably require from time to time.

(17) The Borrower shall not transfer, assign or pledge any right or interest in, or title to, any funds deposited by the Borrower with the Lender, or reserved by the Lender for the Borrower, without the prior written approval of the Lender and the Commissioner.

(18) As used in this instrument, the term "Lender" shall be deemed to include any person to whom the Note and Mortgage referred to above shall be assigned with the knowledge and consent of the Commissioner. This instrument shall be binding upon the parties hereto and their respective successors and assigns.

Signed, sealed and delivered in the presence of:

s/ Willet Wash-Exy Sec.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION

By: s/ Joseph Jeffries-El Pres.
Joseph Jeffries-El, President

Signed, sealed and delivered in the presence of:

s/ Joseph A Sphiers Jr

MANUFACTURERS HANOVER TRUST COMPANY

By: s/ Walter R Graham Asst. Treas.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On this 18th day of November, 1970, before me personally came Joseph Jeffries-El, to me known, who being by me duly sworn, did depose and say that he resides at 1700 Bedford Avenue, Brooklyn, New York; that he is the President of the Brownsville Housing Development Fund Corporation, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

s/ Robert L. Tracy
Notary

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On this 18th day of November, 1970, before me personally came WALTER R GRAHAM, to me known, who being by me duly sworn, did depose and say that he resides at No. 10 WHITEHALL ST. EASTHAMPTON L.I. that he is the ASST V P OF TREAS. of Manufacturers Hanover Trust Company, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

s/ Seymour A Shattman
Notary

RIDER ATTACHED TO AND FORMING
PART OF BUILDING LOAN AGREEMENT

4A. It is understood and agreed that all or any part of the 10% holdback retained in connection with work theretofore performed may be advanced to the Borrower hereunder, at any time or from time to time by the Lender, and any advance of such retained percentage shall be deemed to be made pursuant to this agreement and not in modification thereof: provided, however, that the Federal Housing Commissioner may, but shall not be obligated to insure such advance prior to completion for purposes of final payment as defined in this paragraph (4): and provided, further, that the insurance of such advance shall be further evidenced by the written consent of the Federal Housing Administration, signed by the Assistant Commissioner for Multifamily Operations.

(19) That in compliance with the Lien Law of the State of New York the Borrower will receive the advances secured by this agreement and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that it will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

(20) ADDENDUM TO ARTICLE "6" ABOVE: The following provision shall be included immediately following the end of "Article 6":

> "Notwithstanding any other provisions hereof, the Lender shall not be obligated to make any advances hereunder, unless said advance shall constitute a first lien against the premises."

(21) ADDENDUM TO ARTICLE "10" ABOVE: The following provision shall be included immediately after the words "twenty (20) days" on Line 2, Article "10" above:

> "or through its own acts or failure to act, fails to prosecute the work to the satisfaction of the Lender and the Federal Housing Commissioner."

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Joseph Jeffries-El, being duly sworn, deposes and says:

I reside at 1700 Bedford Avenue, Brooklyn, New York. I am President of the Brownsville Housing Development Fund Corporation, the Borrower mentioned in the within Building Loan Agreement.

The consideration paid or to be paid by the Borrower to the Lender for the loan described is Zero Dollars ($0.00), and that all other expenses incurred or to be incurred in connection with said loan are as follows:

Interest during Construction	$ 929,670
Insurance during Construction	126,081
FHA Mortgage Insurance	151,440
FHA Examination Fee	30,288
Title and Recording Expense	50,480
FHA Inspection Fee	50,480
FNMA Fee	176,680
Initial Service Charge	201,920
Architect's Fee	149,859
Other Fees	19,131
Total	$1,886,029

and that the net sum available to the said Borrower for the improvement is Seven Million Six Hundred Ninety-Seven Thousand Two Hundred Twenty-Six Dollars ($7,697,226.00).

This statement is made pursuant to Section 22 of the Lien Law of the State of New York. The facts herein stated are true to the knowledge of deponent.

s/Joseph Jeffries El, Pres

Sworn to before me this
18th day of November, 1970.

s/Robert L. Tracy

EXHIBIT A TO BUILDING LOAN AGREEMENT

ALL that plot, piece or parcel of land situated, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the Westerly side of Stone Avenue with the Southerly side of Lott Avenue;

RUNNING THENCE Westerly along the Southerly side of Lott Avenue, 460.42 feet (460 feet New Lots Standard) to its intersection with the Easterly side of Osborn Street;

THENCE Southerly along the Easterly side of Osborn Street, 90.08 feet (90 feet New Lots Standard);

THENCE Easterly at right angles to the Easterly side of Osborn Street, 100.09 feet (100 feet New Lots Standard);

THENCE Southerly parallel with the Easterly side of Osborn Street, 460.42 feet (460 feet New Lots Standard) to the Northerly side of Hegeman Avenue;

THENCE Easterly along the Northerly side of Hegeman Avenue, 68.81 feet (68.75 feet New Lots Standard) to its intersection with the Northerly side of New Lots Avenue;

THENCE Easterly on a line forming an interior angle of 160 degrees 40 minutes 02 seconds with the last described course and along the Northerly side of New Lots Avenue, 308.93 feet (308.65 feet New Lots Standard) to its intersection with the Westerly side of Stone Avenue; and

THENCE Northerly along the Westerly side of Stone Avenue, 448.23 feet (447.82 feet New Lots Standard) to its intersection with the Southerly side of Lott Avenue, at the corner, the point or place of Beginning.

(continued)

For conveyancing only, if intended to be conveyed. { Together with all right, title and interest of, in and to any streets and roads abutting the above described premises, to the center line thereof

EXHIBIT A TO BUILDING LOAN AGREEMENT

BEING the same premises as Lots 1, 32 and 43 through 60 of Block 3628 in Section 12 and Lots 1 through 22, 25 and 41 through 51 of Block 3629 in Section 12 on the Tax Map of the City of New York for the Borough of Brooklyn as the same was on September 3, 1968, and, as of said date, Watkins Street between said Blocks (never legally opened, now demapped, and no longer a street on the City Plan); and

BEING the same premises as Damage Parcels Numbered 227 through 246 (in said Block 3628), Damage Parcels Numbered 247 through 280 (in said Block 3629), and Damage Parcel Numbered 309 (said Watkins Street) on the Damage Map in the Brownsville Urban Renewal Project area taken by The City of New York pursuant to the order of the Supreme Court, in the County of Kings, signed by Mr. Justice James S. Brown thereof, dated and filed September 3, 1968.

The dimensions herein not in parenthesis are in accordance with the United States Standard of Measurements. The dimensions herein in parenthesis are in accordance with the local New Lots Standard.

For conveyancing only, if intended to be conveyed. { Together with all right, title and interest of, in and to any streets and roads abutting the above described premises, to the center line thereof

Exhibit B To Building Loan Agreement

FHA FORM NO. 2328
Jan 1963

DEPARTMENT OF HOUSING AND URBAN DEVELOPM.
FEDERAL HOUSING ADMINISTRATION

Form Approved
Budget Bureau No. 63-R0237

Date: June 19, 1970

Sponsor: BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.

CONTRACTOR'S and/or MORTGAGOR'S COST BREAKDOWN
(SCHEDULES OF VALUES)

Project No.: 012-44002 NP

Building Identification: Brownsville, Site "D"

Name of Project:

Location: Brooklyn, New York
Stone Ave., New Lots Ave., Lott Ave.

This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included on the reverse side.

LINE	DIV	TRADE ITEM	COST	TRADE DESCRIPTION	NAME OF CONTRACTOR AND/OR SUBCONTRACTOR
1		Concrete	609400		DeSimone Bros. Inc.
2	4	Masonry	1256000		
3	5	Metals	463100		Midland Iron Works
4	6	Rough Carpentry	758605		Trans Urban Constr. Co. Inc
5	6	Finish Carpentry	91195		" " " "
6	7	Waterproofing	22400		" " " "
7	7	Insulation	8500		" " " "
8	7	Roofing	43200		Colonial Roofing Co., Inc
9	7	Sheet Metal	-		
10	8	Doors	210150		Arch Opening Steel Buck
11	8	Windows	68300		Alwinseal
12	8	Glass	30000		
13	9	Lath & Plaster	15000		
14	9	Drywall	401500		Belmont Partitions
15	9	Tile Work	47500		G.M. Crocetti Inc.
16	9	Acoustical	-		
17	9	Wood Flooring	-		
18	9	Resilient Flooring	110000		Circle Floor
19	9	Painting & Decorating	130000		Gedell Painting Corp.
20	10	Specialties	21177	Med. Cab., Hamper Dryer M/L	
21	11	Special Equipment			
22	11	Cabinets	107050	Kit. Cab. Vanity M/L	
23	11	Appliances	87875	Refrig. & Ranges M/L	
24	12	Blinds & Shades, Artwork	9000		
25	12	Carpets	-		
26	13	Special Construction	39907	Chutes, Compactors, Lobby M/L	
27	14	Elevators	184400		Staley
28	15	Plumbing & Hot Water	684000		A Rosen & Son
29	15	Heat & Ventilation	594000		Zachary - Steven
30	15	Air Conditioning	18000		
31	16	Electrical	376500		
32		Accessory Buildings	-		
33		TOTAL STRUCTURE(S)	6390259		
34	2	Earth Work	186079		
35	2	Site Utilities	11000		
36	2	Roads & Walks	83300		
37	2	Site Improvements	15000		
38	2	Lawns & Planting	40700		
39	2	Unusual Site Condition	100000		
40		TOTAL LAND IMPRVTS.	436079		
41		TOT. STRUCT. & LAND IMPRVTS.	6826338		
42	1	GENERAL REQUIREMENTS	403041		
43		SUBTOTAL (Lines 41 and 42)	7229379		
44		BUILDER'S OVERHEAD	103800		
45		BUILDER'S PROFIT	284521		
46		SUBTOTAL (Lines 43 thru 45)	7620700		
47					
48					
49		OTHER FEES	13,366		
50					
51					
52		BOND PREMIUM	76526		
53		TOTAL FOR ALL IMPROVEMENTS	7709532 ~~7697166~~	TOTAL $	TOTAL $

NONRESIDENTIAL AND SPECIAL EXTERIOR LAND IMPROVEMENT
(costs included in trade item breakdown)

DESCRIPTION	EST. COST

OFFSITE COSTS
(costs not included in trade item breakdown)

DESCRIPTION	EST. COST
Sidewalk	31,325
Curb & Trees	
Sewer Work	50,000
TOTAL $	81,325

DEMOLITION
(costs not included in trade item breakdown)

DESCRIPTION	EST. COST

Contractor: F.M. EVERSLEY & CO., INC. By: F.M. Eversley Jr. Date: June 19, 1970
Frederick M. Eversley, Jr. President

Mortgagor: Brownsville Housing Development Fund Corp. By: [signature] Date: July 15, 1970

FHA: [signature] Date: JUL 21 1970
Title Commissioner

FHA FORM NO. 4159.K
(CORPORATE)
Revised May 1966

B 86

MORTGAGE

#14

THIS MORTGAGE, made the 18th day of November, 1970
between Brownsville Housing Development Fund Corporation

, a corporation organized and existing under the laws of New York and having its principal place of business at 1837 Strauss Street, Brooklyn, N.Y.
the MORTGAGOR, and Manufacturers Hanover Trust Company
a corporation organized and existing under the laws of New York and having its principal place of business at 350 Park Avenue, New York, New York
the MORTGAGEE,

WITNESSETH, that to secure the payment of an indebtedness in the principal sum of Ten Million Ninety-Six Thousand and no/100----------
Dollars ($10,096,000.00), lawful money of the United States, which sum, or so much thereof as may be advanced, with interest from date on outstanding balance at Eight and one-half percent (8 1/2 %) per annum, is payable in monthly installments in accordance with the terms of a certain Note or obligation bearing even date herewith and having a final maturity of November 1, 2013 , which Note is identified as being secured hereby by a certificate thereon. Said Note and all of its terms are incorporated herein by reference and this Mortgage shall secure any and all extensions thereof, however evidenced.

AND ALSO to secure payment by the Mortgagor to the Mortgagee of all sums expended or advanced by the Mortgagee pursuant to any term or provision of this Mortgage; AND ALSO to secure performance of each covenant, term, condition and agreement of the Mortgagor herein contained and in the Regulatory Agreement and Building Loan Agreement hereinafter referred to, the Mortgagor hereby mortgages to the Mortgagee:

ALL that certain lot, piece, or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the City of New York , County of Kings , and State of New York, bounded and described as follows:

SEE EXHIBIT A ATTACHED HERETO

Together with all right, title, and interest of the Mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises; and

TOGETHER with all fixtures and articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected including, but not limited to, all awnings, screens, shades, venetian blinds, cabinets, fixtures; and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, and air conditioning equipment and fixtures and appurtenances thereto; and such other goods and chattels and personal property as are ever used or furnished in operating a building or the activities conducted therein similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner, Mortgagor hereby covenanting for itself and its successors that all the aforesaid property mentioned in this paragraph, all of which is intended to be included in the mortgaged property, when acquired and placed upon the premises, is and shall be owned by it in fee simple, free and clear of all liens and encumbrances; it being hereby mutually agreed that all the aforesaid property shall, so far as permitted by law, be deemed to be affixed to the realty, and together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein.

The Mortgagor further covenants and agrees as follows:

1. That Mortgagor will pay the Note at the times and in the manner provided therein;

2. That Mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed; nor will it permit or suffer any alteration of or addition to the building or improvements hereafter constructed in or upon said property without the consent of the Mortgagee;

3. That the Regulatory Agreement, if any, executed by the Mortgagor and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Mortgage. Upon default under the Regulatory Agreement and upon the request of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, the Mortgagee, at its option, may declare the whole of the indebtedness secured hereby to be due and payable,

4. That all rents, profits and income from the property covered by this Mortgage are hereby assigned to the Mortgagee for the purpose of discharging the debt hereby secured. Permission is hereby given to Mortgagor so long as no default exists hereunder, to collect such rents, profits and income for use in accordance with the provisions of the Regulatory Agreement;

5. That upon default hereunder Mortgagee shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom,

6. That at the option of the Mortgagor the principal balance secured hereby may be reamortized on terms acceptable to the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner if a partial pre-payment results from an award in condemnation in accordance with provisions of Paragraph 8 herein, or from an insurance payment made in accordance with provisions of Paragraph 7 herein, where there is a resulting loss of project income;

7. That the Mortgagor will keep the improvements now existing or hereafter erected on the mortgaged property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner upon the insurance of the Mortgage and other hazards as may be required from time to time by the Mortgagee, and all such insurance shall be evidenced by standard Fire and Extended Coverage Insurance Policy or policies, in amounts not less than necessary to comply with the applicable Coinsurance Clause percentage, but in no event shall the amounts of coverage be less than 80% of the Insurable Values or not less then the unpaid balance of the insured Mortgage, whichever is the lesser, and in default thereof the Mortgagee shall have the right to effect insurance. Such policies shall be endorsed with standard Mortgagee clause with loss payable to the Mortgagee and the Secretary of Housing and Urban Development as interest may appear, and shall be deposited with the Mortgagee;

That if the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the Mortgagee, and, at its option, may be applied to the debt or released for the repairing or rebuilding of the premises;

8. That all awards of damages in connection with any condemnation for public use of or injury to any of said property, shall be paid to the mortgagee to be applied to the amount due under the Note secured hereby in (1) amounts equal to the next maturing installment or installments of principal and (2) with any balance to be credited to the next payment due under the Note. No amount applied to the reduction of the principal amount due in accordance with (1) shall be considered an optional prepayment as the term is used in this Mortgage and the Note secured hereby, nor relieve the mortgagor from making regular monthly payments commencing on the first month following the date of receipt of the award. The holder of the Note is hereby authorized in the name of the mortgagor to execute and deliver valid acquittances for such awards and to appeal from such awards.

9. That in order more fully to protect the security of this Mortgage, together with, and in addition to, the monthly payments of principal and interest payable under the terms of the Note secured hereby, the Mortgagor agrees to deposit with the Mortgagee concurrently with payments of interest or of interest and principal, on the first day of each month after the date hereof until the said Note is fully paid, the following sums:

(a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage insurance premium if this instrument and the Note secured hereby are insured, or a monthly service charge, if they are held by the Secretary of Housing and Urban Development, as follows:

(I) If and so long as said Note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the Mortgagee one month prior to its due date the annual mortgage insurance premium in order to provide such Mortgagee with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations thereunder, or

(II) If and so long as said Note of even date and this instrument are held by the Secretary of Housing and Urban Development, a monthly service charge in an amount equal to 1/12 of ½% of the average outstanding principal balance due on the Note computed for each successive year beginning with the first day of the month following the date of this instrument, if the Secretary of Housing and Urban Development is the mortgagee named herein, or the first day of the month following assignment, if the Note and this instrument are assigned to the Secretary of Housing and Urban Development, without taking into account delinquencies or prepayment;

(b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the Mortgagee) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by Mortgagee in trust to pay said ground rents, premiums, water rates, taxes and special assessments;

[illegible] payments provided in the preceding subsections of this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by Mortgagee to the following items in the order set forth:

(I) premium charges under the Contract of Insurance with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner or service charge;

(II) ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;

(III) interest on the Note secured hereby;

(IV) amortization of the principal of said Note;

10. Any excess funds accumulated under *(b)* of the preceding paragraph remaining after payment of the items therein mentioned shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor the Mortgagor shall without demand forthwith make good the deficiency. Failure to do so before the same become delinquent or subject to interest or penalties shall be a default hereunder. In case of termination of the Contract of Mortgage Insurance by prepayment of the mortgage in full, or otherwise (except as hereinafter provided), accumulations under *(a)* of the preceding paragraph not required to meet payments due under the Contract of Mortgage Insurance, shall be credited to the Mortgagor. If the property is sold under foreclosure or is otherwise acquired by the Mortgagee after default, any remaining balance of the accumulations under *(b)* of the preceding paragraph shall be credited to the principal of the mortgage as of the date of commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under *(a)* of the preceding paragraph shall be likewise credited unless required to pay sums due the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner under the Contract of Mortgage Insurance;

11. That no building on the premises shall be altered, removed, or demolished without the consent of the Mortgagee;

12. That the Mortgagor will pay all taxes, assessments, or water rates, and in default thereof, the Mortgagee may pay the same;

13. That the Mortgagor within five days upon request in person or within ten days upon request by mail will furnish a written statement duly acknowledged of the amount due on this Mortgage and whether any offsets or defenses exist against the Mortgage debt.

14. That the Mortgagor warrants the title to the premises and that this Mortgage is, and will be maintained as, a valid first lien on the premises;

15. That in case of sale under foreclosure the premises may be sold in one parcel;

16. This Mortgage and the Note secured hereby were executed and delivered to secure moneys advanced or to be advanced and to be used in the construction of certain improvements on the lands herein described, in accordance with a building loan agreement between the parties hereto dated November 15, 19 70, and intended to be filed simultaneously herewith, which building loan agreement (except such part or parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Mortgage, which said building loan agreement Mortgagor hereby covenants to perform; and if the construction of the improvements to be made pursuant to said building loan agreement shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than strikes or lock-outs, the Mortgagee, after due notice to the Mortgagor, or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depredation or injury, and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into contracts and obligations wherever necessary, either in its own name or in the name of the Mortgagor, or other owner, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Mortgagee (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Mortgage and shall be due and payable on demand with interest at the rate specified in said Note, but no such advances shall be insured unless the same are specifically approved by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner prior to the making thereof. The principal sum with interest and other charges provided for herein shall, at the option of the Mortgagee or holder of this Mortgage and the Note secured thereby, become due and payable on the failure of the Mortgagor, or owner, to keep and perform any of the covenants, conditions, and agreements of said building loan agreement. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the Mortgagee and the making of the final advance as provided in said building loan agreement.

17. The Mortgagor covenants that it will not voluntarily create or permit to be created against the property subject to this mortgage any lien or liens inferior or superior to the lien of this Mortgage.

18. That the Mortgagor will give immediate notice by mail to the Mortgagee of any fire, damage, or other casualty to the premises or of any conveyance, transfer, or change of ownership of the premises. The holder of this Mortgage, its agents or servants, shall have the right to inspect the mortgaged premises from time to time at any reasonable hour of the day;

19. That Mortgagor will not permit or commit any waste on said premises and will keep the buildings thereon and all equipment therein mortgaged in good repair, and promptly comply with all laws, ordinances, regulations, and requirements of any governmental body affecting the said mortgaged premises, and should said premises or any part thereof require inspection, repair, care, or attention of any kind or nature not provided by the Mortgagor, the Mortgagee, being hereby made sole judge of the necessity therefor, may enter or cause entry to be made upon said property, and inspect, repair, protect, care for or maintain said property as the Mortgagee may deem necessary, and may pay such sum of money therefor, and shall be the sole judge of the amount necessary to be paid.

20. That upon any default by the Mortgagor in the compliance with, or performance of, any of the terms, covenants, or conditions of this Mortgage or of the Note secured hereby, the Mortgagee may at its option remedy such default, and that all payments made by the Mortgagee to remedy a default by the Mortgagor as aforesaid (including reasonable attorney's fees) and the total of any payment or payments due from the Mortgagor to the Mortgagee and in default, together with interest thereon at the rate specified in said Note per annum shall be added to the debt secured by this Mortgage and shall be repaid to the Mortgagee upon demand. Any such sum and the interest thereon shall be a lien on the premises, prior to any other lien attaching or accruing subsequent to the lien of this Mortgage;

21. That after any default herein or in the Note secured hereby, the Mortgagor or any subsequent owner shall, upon demand, surrender possession of the premises to the holder of this Mortgage, and the holder of this Mortgage may enter upon the premises and let the same and collect all the rents therefrom, which are due, or to become due, and apply the same, after payment of all charges and expenses on account of the indebtedness hereby secured; and all the leases existing at the time of such default, are hereby assigned to the holder of this Mortgage as further security for the payment of said indebtedness. The holder of this Mortgage may also dispossess, by the usual summary proceedings, any tenant defaulting in the payment to the holder of this Mortgage of any rent. In the event that the Mortgagor or any subsequent owner of said premises occupies the same, the Mortgagor agrees for himself and for such owner to surrender possession of the premises to the holder of this Mortgage immediately upon any default hereunder and if such Mortgagor or subsequent owner remains in possession after any default the possession shall be as tenant of the holder of this Mortgage and the Mortgagor or such subsequent owner agrees to pay in advance upon demand to the holder of this Mortgage as a reasonable monthly rental for the premises an amount at least equivalent to

one twelfth (1/12) of the aggregate of the twelve monthly installments payable in the then current year, plus the actual amount of the annual taxes, assessments, water rates, and insurance premiums for such year not covered by the aforesaid monthly payments, and in default of so doing such mortgagor or subsequent owner may also be dispossessed by the usual summary proceedings. This covenant shall become effective immediately after the happening of any such default, solely on the determination of the then holder of this Mortgage. In case of foreclosure and the appointment of a receiver of the rents, this covenant shall inure to the benefit of such receiver;

22. The Mortgagor covenants and warrants that the improvements about to be made upon the premises above described and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the fire rating or inspection organization, bureau, association or office having jurisdiction, which are now or may hereafter become applicable;

23. That the Mortgagor will receive the advances secured by this Mortgage and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that it will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose;

24. That so long as this Mortgage and the Note secured hereby are insured or held by the Secretary of Housing and Urban Development, under the provisions of the National Housing Act, the Mortgagor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color or creed;

25. That the whole of the said principal sum and of any other sums of money secured by this Mortgage shall, forthwith or thereafter, at the option of the Mortgagee, become due and payable upon the happening of either of the following events, irrespective of whether or not the same be remedied by the Mortgagee:

(a) Failure to make any monthly payment provided for herein or in the Note secured hereby prior to the due date of the next such installment.

(b) Failure of the Mortgagor to perform or comply with any other covenant, agreement, term, or condition of this mortgage or of the Note secured hereby in accordance with the terms hereof and thereof;

26. In the event the Mortgagee shall declare the whole of the said principal sum and of any other sums of money secured by this Mortgage, due and payable as aforesaid, the Mortgagor does hereby authorize and fully empower the Mortgagee to sell the mortgaged premises at public auction, and convey the same to the purchaser according to the statute in such case made and provided;

27. That no waiver of any covenant herein or of the Note secured hereby shall at anytime thereafter be held to be a waiver of the terms hereof or of the Note secured hereby;

28. That if the Mortgagee is made or becomes a party to any suit or action, by reason of this Mortgage or the indebtedness hereby secured, the Mortgagor will pay all expenses incurred by the Mortgagee therein, including a reasonable attorney's fee;

PROVIDED ALWAYS, NEVERTHELESS, that if the Mortgagor shall well and truly pay the said Note and other indebtedness secured hereby, and shall fully keep and perform all the covenants, agreements, terms and conditions in this Mortgage and in the Note secured hereby, then this Mortgage shall be released and discharged at the cost of the Mortgagor.

This Mortgage and every covenant and agreement therein contained shall be binding upon and inure to the benefit of the Mortgagor and the Mortgagee and their respective successors and assigns and to the extent permitted by law shall bind every subsequent owner of the mortgaged premises. Whenever used, the singular number shall include the plural, the plural the singular and the use of any gender shall be applicable to all genders.

This Mortgage has been executed by authority of the Board of Directors of the Mortgagor.

IN WITNESS WHEREOF, this Mortgage has been duly executed by the Mortgagor.

[CORPORATE SEAL]

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION

By s/Joseph Jeffries-El, Pres.
Joseph Jeffries-El, President

ATTEST:

s/Albert Clarke-Bey, Sec.

STATE OF NEW YORK,

COUNTY OF New York } ss:

On this 18th day of November, in the year one thousand nine hundred and seventy, before me personally came Joseph Jeffries-El to me known, who, being by me duly sworn, did depose and say, that he resides at 1700 Bedford Avenue in Brooklyn, New York; that he is the President of Brownsville Housing Development Fund Corporation the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed h is name thereto by like order.

s/Robert L. Tracy
Notary Public

STATE OF NEW YORK

LOAN NO.

Mortgage

Brownsville Housing Development Fund Corporation

TO

Manufacturers Hanover Trust Company

HUD-Wash., D. C.

212993-P

EXHIBIT A TO MORTGAGE

ALL that plot, piece or parcel of land situated, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the Westerly side of Stone Avenue with the Southerly side of Lott Avenue;

RUNNING THENCE Westerly along the Southerly side of Lott Avenue, 460.42 feet (460 feet New Lots Standard) to its intersection with the Easterly side of Osborn Street;

THENCE Southerly along the Easterly side of Osborn Street, 90.08 feet (90 feet New Lots Standard);

THENCE Easterly at right angles to the Easterly side of Osborn Street, 100.09 feet (100 feet New Lots Standard);

THENCE Southerly parallel with the Easterly side of Osborn Street, 460.42 feet (460 feet New Lots Standard) to the Northerly side of Hegeman Avenue;

THENCE Easterly along the Northerly side of Hegeman Avenue, 68.81 feet (68.75 feet New Lots Standard) to its intersection with the Northerly side of New Lots Avenue;

THENCE Easterly on a line forming an interior angle of 160 degrees 40 minutes 02 seconds with the last described course and along the Northerly side of New Lots Avenue, 308.93 feet (308.65 feet New Lots Standard) to its intersection with the Westerly side of Stone Avenue; and

THENCE Northerly along the Westerly side of Stone Avenue, 448.23 feet (447.82 feet New Lots Standard) to its intersection with the Southerly side of Lott Avenue, at the corner, the point or place of Beginning.

(continued)

For conveyancing only if intended to be conveyed. { Together with all right, title and interest of, in and to any streets and roads abutting the above described premises, to the center line thereof

EXHIBIT A TO MORTGAGE

BEING the same premises as Lots 1, 32 and 43 through 60 of Block 3628 in Section 12 and Lots 1 through 22, 25 and 41 through 51 of Block 3629 in Section 12 on the Tax Map of the City of New York for the Borough of Brooklyn as the same was on September 3, 1968, and, as of said date, Watkins Street between said Blocks (never legally opened, now demapped, and no longer a street on the City Plan); and

BEING the same premises as Damage Parcels Numbered 227 through 246 (in said Block 3628), Damage Parcels Numbered 247 through 280 (in said Block 3629), and Damage Parcel Numbered 309 (said Watkins Street) on the Damage Map in the Brownsville Urban Renewal Project area taken by The City of New York pursuant to the order of the Supreme Court, in the County of Kings, signed by Mr. Justice James S. Brown thereof, dated and filed September 3, 1968.

The dimensions herein not in parenthesis are in accordance with the United States Standard of Measurements. The dimensions herein in parenthesis are in accordance with the local New Lots Standard.

For conveyancing only, if intended to be conveyed. { Together with all right, title and interest of, in and to any streets and roads abutting the above described premises, to the center line thereof

In the Matter of an Application
To Exempt The Attached
Mortgage From Mortgage Taxation.

AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JOSEPH JEFFRIES-EL, being duly sworn deposes and says: I am the President of Brownsville Housing Development Fund Corporation, a domestic corporation organized and existing under the laws of the State of New York more particularly pursuant to Article 11 of the Private Housing Finance Law.

This Affidavit is made for the purpose of securing an exemption from mortgage tax in connection with a certain mortgage dated November 18, 1970 made by Brownsville Housing Development Fund Corporation to Manufacturers Hanover Trust Company in the principal amount of Ten Million Ninety Six Thousand and no/100 Dollars ($10,096,000.00) which is being submitted for recording and for which an exemption from mortgage tax is claimed.

Section 577 (a) of the Private Housing Finance Law provides as follows:

> Any inconsistent provision of law to the contrary notwithstanding, municipally-aided, state-aided or federally-aided mortgages of a housing development fund company shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

The aforesaid mortgage is federally aided in that same is insured by the Department of Housing and Urban Development pursuant to Section 236 of the National Housing Act.

In view of the foregoing, it is respectfully claimed that there is an exemption from the mortgage recording tax as imposed by the tax law.

WHEREFORE, deponent prays that the mortgage tax recording clerk accept the aforementioned mortgage for recording without the imposition of the tax thereon.

JOSEPH JEFFRIES-EL, President

Sworn to before me this
18th day of November, 1970.

Notary Public

B 93

FHA FORM NO. 4152-A
(CORPORATE)
REVISED MARCH 1965

MORTGAGE NOTE

$10,096,000.00

New York, New York

November 18, 1970.

FOR VALUE RECEIVED, the undersigned, Brownsville Housing Development Fund Corp. promises to pay to Manufacturers Hanover Trust Company a corporation organized and existing under the laws of New York or order, hereinafter designated as the Mortgagee, the principal sum of Ten Million Ninety-Six Thousand and no/100---------- Dollars ($ 10,096,000.00) with interest from date at the rate of eight and one-half per centum (8 1/2%) per annum on the unpaid balance until paid. The said principal and interest shall be payable in monthly installments as follows: Interest only payable monthly on the first day of December, 1970, and on the first day of each month thereafter as hereinabove set forth. Commencing on the first day of December, 1973, installments of interest and principal shall be paid in the sum of $74,015.13, each, such payments to continue monthly thereafter on the first day of each succeeding month until the entire indebtedness has been paid. In any event, the balance of principal, if any, remaining unpaid, plus accrued interest, shall be due and payable on November 1, 2013. The aforesaid installments of interest and principal shall be applied first to interest at the rate of 8 1/2% per annum upon the principal sum or so much thereof as shall from time to time remain unpaid, and the balance thereof shall be applied on account of principal.

In the event that the mortgagor shall fail to make any monthly payment due the mortgagee within fifteen (15) days after the due date hereof, the mortgagee may, at his option, impose a late charge upon the mortgagor in an amount not to exceed 2 percent (2%) of said monthly payment, provided, nevertheless, that so long as this mortgage shall be insured by the Federal Housing Administration under Section 236 of the National Housing Act, the amount of the monthly payment upon which such late charge may be imposed shall be limited to the amount actually payable by the mortgagor to the mortgagee and shall not include for such purpose the amount payable by the Federal Housing Administration to the mortgagee pursuant to its commitment under Section 236 of the National Housing Act.

Both principal and interest under this Note, as well as the additional payments set forth in the Mortgage of even date herewith securing this Note, shall be payable at the office of Manufacturers Hanover Trust Company, 350 Park Avenue in New York, New York or such other place as the holder may designate in writing.

SEE RIDER TO MORTGAGE NOTE

[redacted] If this debt is paid in full prior to maturity and while insured under the National Housing Act, all parties liable for payment of this debt hereby agree to be jointly and severally bound to pay to the holder hereof any adjusted premium charge required by the applicable Regulations.

Notwithstanding any provision herein for a prepayment charge, such charge shall be applicable only to the amount of prepayment in any one calendar year which is in excess of fifteen per centum (15%) of the original principal sum of this Note.

The whole of the principal sum or any part thereof, and of any other sums of money secured by the Mortgage given to secure this Note, shall, forthwith, or thereafter, at the option of the Mortgagee, become due and payable if default be made in the payment of any installment under this Note and if such default is not made good prior to the due date of the next such installment or upon the happening of any default which, by the terms of the Mortgage given to secure this Note, shall entitle the Mortgagee to declare the same, or any part thereof, to be due and payable; all the covenants, agreements, terms, and conditions of said Mortgage and of the Building Loan Agreement incorporated in the Mortgage (to the extent said Building Loan Agreement is not inconsistent with the terms of this Note and the said Mortgage) are hereby incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Note, and the undersigned hereby covenants to perform all such covenants and agreements. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. In the event of default in the payment of this Note, and if the same is collected by an attorney at law, the undersigned hereby agree(s) to pay all costs of collection, including a reasonable attorney's fee.

No default shall exist by reason of nonpayment of any required installment of principal so long as the amount of optional additional prepayments of principal already made pursuant to the privilege of prepayment set forth in this Note equals or exceeds the amount of such required installment of principal.

All parties to this Note, whether principal, surety, guarantor, or endorser, hereby waive presentment for payment, demand, protest, notice of protest, and notice of dishonor.

Signed and sealed the day and year first above written.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION

ATTEST: Wilbert Clarke-Asst. Sec. BY Joseph Jeffries, El
Joseph Jeffries, El, President

THIS IS TO CERTIFY that this is the Note described in, and secured by, Mortgage of even date herewith, and in the same principal amount as herein stated, on property located at Stone, Lott, Hegeman Aves., in the City of New York, County of Kings, State of New York.

Robert L. Tracy
Notary Public

ROBERT L. TRACY
Notary Public, State of New York
No. 31-4011100
Qualified in New York County
Commission Expires March 30, 1971

STATE OF NEW YORK

Loan No.

Mortgage Note

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
TO
MANUFACTURERS HANOVER TRUST COMPANY
No. 012-44002

Insured under § 236 of the National Housing Act and Regulations thereunder of the Federal Housing Commissioner

In effect on August 3, 1970

To the extent of advances approved by the Commissioner

FEDERAL HOUSING COMMISSIONER

By _____ (Authorized Agent)

Date _____

A total sum of $_____ has been approved for insurance hereunder by the Commissioner.

FEDERAL HOUSING COMMISSIONER

By _____ (Authorized Agent)

Date _____

Reference is made to the Act and to the Regulations thereunder covering assignments of the insurance protection on this note.

Rider To Mortgage Note

The debt evidenced by this Note may not be prepaid either in whole or in part prior to the final maturity date hereof without the prior written approval of the Federal Housing Commissioner except where: (1) The prepayment is in connection with the release of an individual unit for sale to a lower income, elderly, or handicapped person; or (2) The maker is a limited dividend corporation which is not receiving payments from the Commissioner under a rent supplement contract pursuant to Section 101 of the Housing and Urban Development Act of 1965, and the prepayment occurs after the expiration of 20 years from the date of final endorsement or as a result of a sale of the project to a cooperative or nonprofit corporation or association and the purchase is financed with a mortgage insured pursuant to Section 236(j)(3) of the National Housing Act, as amended.

No prepayment penalty shall be due to the holder hereof in the event of prepayment of principal resulting from the sale of an individual dwelling unit in the project to lower income, elderly or handicapped purchasers.

In the event of prepayment of principal during any one calendar year in an amount in excess of fifteen percent (15%) of the original principal amount of the note, all parties liable for payment thereof hereby agree to be jointly and severally bound to pay to the holder for its own account a penalty or charge equal to three percent (3%) of the amount of such excess, ~~less~~ one-eighth of one percent (1/8th of 1%) for each twelve-month period which has elapsed since the date of the note.

Form FS-2013.1-D.2-41A
Rev. 3/69

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

B 96

CONSTRUCTION CONTRACT--COST PLUS

THIS AGREEMENT, made the 10th day of November 19 70, by and between F.W. EVERSLEY & CO., INC. (hereinafter called the "Contractor") and BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION hereinafter called the "Owner").

WITNESSETH, That the Contractor and the Owner, for the consideration hereinafter set out, agree as follows:

Article 1 - Scope of Contract

A. The Contract between the parties is set forth in the "Contract Documents", which consist of this Agreement, the Drawings and Specifications, to which are attached the current edition of AIA Document A201, "General Conditions of the Contract for Construction", and FHA Form No. 2554, "Supplementary Conditions of the Contract for Construction". The provisions of this instrument and the said FHA Supplementary Conditions take precedence over all inconsistent provisions in the said AIA General Conditions. Any provision in said AIA General Conditions whereby the undersigned waive all rights against each other for damages caused by fire and other perils covered by insurance shall be inapplicable. This Contract constitutes the entire agreement between the parties, and any previously existing contract concerning the work contemplated by the Contract Documents is hereby revoked.

B. The Contractor shall furnish all of the materials and perform all of the work (within the property lines) shown on, and in accordance with, the Drawings and Specifications entitled Noble Drew Ali Plaza I
FHA Project No. 012-44002-NP-R, dated January 30, 1970

SEE RIDER A

The Architect administering the Construction Contract (hereinafter, and elsewhere in the Contract Documents, referred to as the "Architect") is Roger DeCourey Glasgow

D. A master set of said Drawings and Specifications, identified by the parties hereto and by the Design Architect, the Architect, and the Contractor's Surety or Guarantor have been placed on file with the Federal Housing Commissioner (hereinafter referred to as the "Commissioner"), and shall govern in all matters which arise with respect to such Drawings and Specifications.

E. Changes in the Drawings and Specifications or any terms of the Contract Documents, or orders for extra work, or changes by altering or adding to the work, which will result in any net construction cost increase, or will change the design concept, or which will result in a net cumulative construction cost decrease of more than 2% of the contract amount may be effected only with the prior written approval of the Owner's Lender (more particularly identified below and hereinafter referred to as the "Lender") and the Commissioner and under such conditions as either the Lender or the Commissioner may establish.

Article 2 - Time

A. The work to be performed under this Contract shall be commenced within 5 days of this Agreement, and shall be completed by November 10th, 19 72. The time by which the work shall be completed may be extended in accordance with the terms of the said AIA General Conditions only with the prior written approval of the Commissioner.

B. The Contractor shall correct any defects due to faulty materials or workmanship which appear within one year from the date of completion.

C. If the work is not completed in accordance with the Drawings and Specifications, including any authorized changes, by the date specified above, or by such date to which the contract time may be extended, the maximum sum stated in Article 3A(1) below shall be reduced by $ 2,423.04 as liquidated damages, for each day of delay until the date of completion. The total of any such liquidated damages shall be reduced by an amount equal to the project's net operating income (as defined and determined by the Commissioner) for the period upon which liquidated damages are based.

D. The date of ~~substantial~~ completion shall be the date the FHA Chief Underwriter signs the final Project Inspection Report (FHA Form No. 2449).

Article 3 - Payments

A. (1) Subject to the provisions hereinafter set out, the Owner shall pay to the Contractor for the performance of this Contract the following items in cash:

(a) The actual cost of construction as defined in Article 10 below; plus
(b) A fee of $ 284,521.00

In no event, however, shall the total cash payable pursuant to this paragraph (1) exceed $ ~~7,769,532.00~~ 7,697,226 except as increased or decreased by Approved changes

(2) In addition to any cash fee provided for in paragraph (1) Owner shall pay to the Contractor by means other than cash, the following:

(a) A note in form prescribed by the Commissioner in the amount of $ None
(b) None
(3) SEE RIDER B

(4) If upon completion, the Contractor shall have received cash payments in excess of (a) the actual cost of construction, plus (b) the cash fee specified in paragraph (1), plus the additional amount to be paid under the provisions of paragraph (3), all such excess shall be refunded to the Owner.

B. Each month after the commencement of work hereunder, the Contractor shall make a monthly request for payment (in quadruplicate on FHA Form No. 2448) by the Owner for work done during the preceding month. Each request for payment shall be filed at least five (5) days before the date payment is desired. Subject to the approval of the Lender and the Commissioner, the Contractor shall be entitled to payment thereon in an amount equal to (1) the total value of classes of the work acceptably completed; plus (2) the value of materials and equipment not incorporated in the work, but delivered to and suitably stored at the site; less (3) 10 percent holdback and less prior payments. The "values" of both (1) and (2) shall be computed in accordance with the amounts assigned to classes of the work in the "Contractor's Mortgagor's Cost Breakdown", attached hereto as Exhibit "A". The Contractor agrees that no materials or equipment required by the Specifications will be purchased under a conditional sale contract with the use of any security agreement or other vendor's title or lien retention instrument.

C. The balance due the Contractor hereunder shall be payable upon the expiration of 30 days after the work hereunder is fully completed, provided the following have occurred:

(1) All work hereunder requiring inspection by municipal or other governmental authorities having jurisdiction has been inspected and approved by such authorities and by the rating or inspection organization, bureau, association or office having jurisdiction;

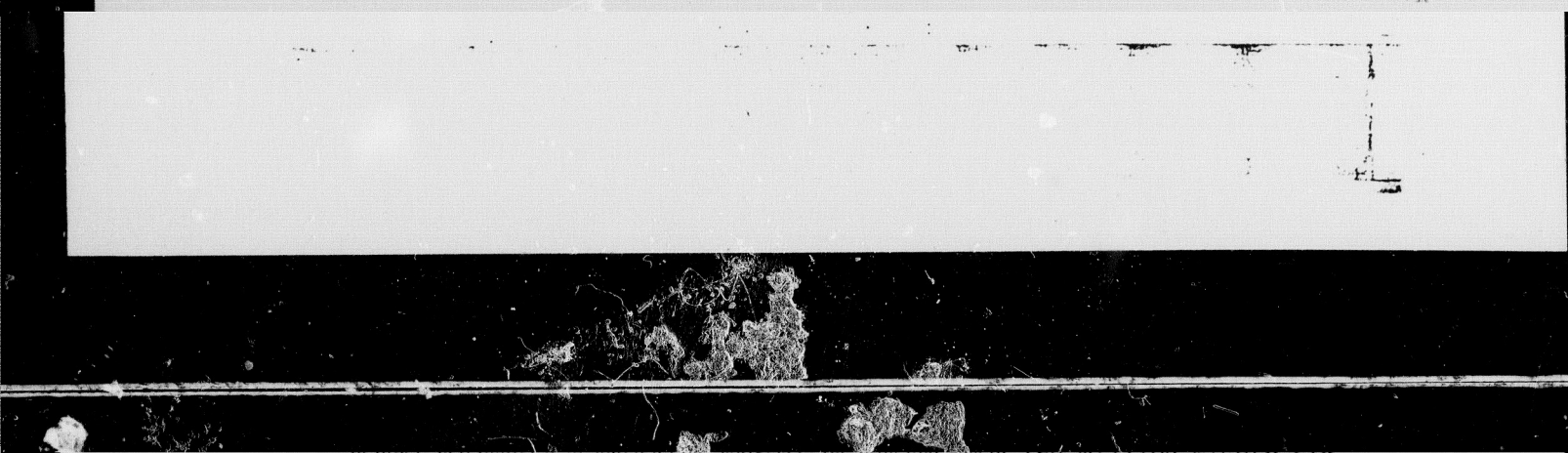
(2) All certificates of occupancy, or other approvals, with respect to all units of the project have been issued by State or local governmental authorities having jurisdiction; and

(2) Permissions to occupy (FHA Form No. 2485) for all units of the project have been issued by the Commissioner.

D. With its final application for payment by the Owner, the Contractor shall disclose, on a form prescribed by the Commissioner, all unpaid obligations contracted in connection with the work performed under this Contract. The Contractor agrees that within 15 days following receipt of final payment, it will pay such obligations in cash and furnish satisfactory evidence of such payment to the Owner.

Article 4 - Receipts & Releases of Liens

The Owner may require the Contractor to attach to each request for payment its acknowledgement of payment and all subcontractors' and materialmen's acknowledgements of payment for work done and materials, equipment and fixtures furnished through the date covered by the previous payment. Concurrently with the final payment, the Owner may require the Contractor to execute a waiver or release of lien for all work performed and materials furnished hereunder, and may require the Contractor to obtain similar waivers or releases from all subcontractors and materialmen.



RIDER A TO CONSTRUCTION CONTRACT

Drawings:

Cover sheet plus miscellaneous architectural drawings, Sheet No. 1 through 96, including Sheet No. 2, boundary survey and legal description of property.

Total - 97 Sheets

Specifications:

Title sheet and Signature Pages - 2
Index Pages - 3
A.I.A. General Conditions, Articles 1 through 14, Pages 1 through 17
FHA Supplementary Conditions of the Contract for Construction,
Pages 18 through 21 - 4 Pages
List of manufacturers - Pages 22 through 35 - 14 Pages
General Specifications - Pages 36 through 239 - 204 Pages

Total - 245 Pages

Change Order #1

To cover the cost of items added to the project by the N.Y.C. Building Department on the November 6, 1970 approved drawing after the F.H.A. Trade Payment Breakdown was submitted and approved by F.H.A. on July 8, 1970.

A. To satisfy N.Y.C. Building Department objections, the East Bldg. foundation wall was dropped 1'-9" adding 1.75 ft. of foundation wall. The West Bldg. foundation wall was dropped 2'-6" adding 2½ ft. of concrete foundation wall totaling 7000 linier ft of additional walls. These changes necessitates 700 cubic yards more of concrete and 1400 cubic yards more of dirt excavation.

=$77,000.00

B. As per new structural note #22 on the N.Y.C. Bldg. Department approved drawings, hand rails must be added to both sides of all concrete basement ramps. 5 ramps, each - 50 ft. long, 2 rails need per ramp = 500 linear ft. of railing

= $6,000

C. The N.Y.C. Building Department has added four (4) new stair entrances to the basements of the bldgs. 3 new entrances on the West Bldg, 1 on the East Bldg.

The additional work for the four new entrances consists of:

50 ft. of hand railing
36 concrete steps
4 concrete landings
36 nonslip steel step nosings
4 door bucks and doors and hardware
4 outside drains and connecting piping
4 outside light fixtures and wiring
4 exterior concrete walls 100 sq. ft. each

=$12,000

D. As per new exterior stair detail on N.Y.C. Building Department approved drawing #7, nonslip steel bullnosing on all exterior entrance stairs. 5 entrances each with 9 treads, each tread 10 ft. long.

= $1,200

E. New details for the nine (9) elevator machine rooms on N.Y.C. Building Department approved drawing #13, and #14 which now shows reinforcement rods in concrete rather than wire mesh. 224 sq. ft. of elevator room x 9 rooms

=$3,100.00

F. On N.Y.C. Building Department approved drawing #17 a new 12 inch concrete wall has been has been added in lieu of the 6 inch masonary wall next to the crawl space area, 240 ft. of concrete wall minus cost of 240 ft. of 6 inch masonry wall

= 750.00

TOTAL $100,050.00

Clarifications

A. As per original plans, no steel or concrete flooring is to be placed over Crawl Space areas (all 3x10 wood beams).

B. As per original plans no rubber base is to be put in laundry rooms (they have concrete, not tile floors).

C. In the event of conflicts between the drawings and the specifications, the information as shown on the drawing shall take absolute precedence over that stated in the specifications.

The Brownsville Housing Development Fund Corp. agrees to issue F.H.A. Change Orders for the $100,050.00 additional cost of the above enumerated items, after construction has commenced, and agrees that F.W. Eversley & Co., Inc. will be paid in full for these items before this project is completed.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.

BY [signature] L.S.

F.W. EVERSLEY & CO., INC.

BY [signature] L.S.

President

Noble Drew Ali Plaza

B 100

F.H.A. No. 012-44002-MI-5

RIDER B to Construction Contract

Article 3 - Payments

A. (1) If this work is completed prior to the date specified in Article 2A, the Owner shall pay to the Contractor an additional amount equal to 50 percent of the difference between (a) the total of the Commissioner's estimates as of July 21, 1970, of (i) the cost of construction of all physical improvements, plus (ii) interest, real estate taxes, insurance, and mortgage insurance premiums during construction; and (b) the Owner's actual total cost of such items, as certified to and accepted by the Commissioner. The cost of approved Change Orders (as per RIDER A as well as all future Change Orders), Shall not be considered a part of the Owner's actual total cost (b), when computing the difference between (a) and (b).

B. (3) The Contractor shall be paid in full for the cost of all approved Change Orders (as listed in RIDER A and all future Change Orders), and the cost of such Change Orders shall not be added to the Owner's actual total cost when computing any monies due to the Contractor in the above paragraph, A (3).

BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.

BY Joseph J. Hurst Jr. Pres

F.W. EVENSLEY & CO. INC.

BY F.W. Evensley Jr.
President

Article 5 - Requirements of Contractor

A. The Contractor shall furnish, at its own expense, all building and other permits, licenses, tools, equipment and temporary structures necessary for the construction of the project. The Contractor shall give all required notices and shall comply with all applicable codes, laws, ordinances, rules and regulations, and protective covenants, and with the current regulations of the National Board of Fire Underwriters, wherever applicable. The Contractor further shall comply with the provisions of the "Manual of Accident Prevention in Construction" of the Associated General Contractors of America. The Contractor shall immediately notify the Commissioner of the delivery of all permits, licenses, certificates of inspection, certificates of occupancy, and any other such certificates and instruments required by law, regardless of to whom issued, and shall cause them to be displayed to the Commissioner upon his request.

B. If the Contractor observes that the Drawings and Specifications are at variance with any applicable codes, laws, ordinances, rules or regulations, or protective covenants, it shall promptly notify the Architect in writing, and any necessary changes shall be made as provided in this Contract for changes in the Drawings and Specifications. If the Contractor performs any work knowing it to be contrary to such codes, laws, ordinances, rules or regulations, or protective covenants, without giving such notice to the Architect, it shall bear all costs arising therefrom.

C. Upon completion of construction, the Contractor shall furnish to the Owner a survey showing the location on the site of all improvements constructed thereon, and showing the location of all water, sewer, gas and electric lines and mains, and of all existing utility easements. Such survey shall be prepared by a licensed surveyor who shall certify that the work is installed and erected entirely upon the land covered by the mortgage and within any building restriction lines on said land, and does not overhang or otherwise encroach upon any easement or right-of-way of others. In addition, if the Owner shall so require, the Contractor shall furnish a survey with each application for payment for any improvements, including structures and utilities, not theretofore located on a survey.

D. The Contractor shall assume full responsibility for the maintenance of all landscaping which may be required by the Drawings and Specifications until such time as both parties to this Contract shall receive written notice from the Commissioner that such landscaping has been finally completed. The Owner hereby agrees to make available to the Contractor, for such purpose, without cost to the latter, such facilities as water, hose and sprinkler.

Article 6 - Assurance of Completion

The Contractor shall furnish to the Owner assurance of completion of the work in the form of *

Such assurance of completion shall run to the Owner and the Lender as obligees and shall contain a provision whereby the surety agrees that any claim or right of action that either the Owner or the Lender might have thereunder may be assigned to the Commissioner.

Article 7 - Waiver of Lien or Claim

The Contractor shall file no mechanic's or materialman's lien or maintain any claim against the Owner's real estate or improvements for or on account of any work done, labor performed or materials furnished under this Contract.

Article 8 - Right of Entry and Interpretation

A. The Lender and its agents or assigns and the Commissioner and his agents shall, at all times during construction, have the right of entry and free access to the project and the right to inspect all work done and materials, equipment and fixtures furnished, installed or stored in and about the project. For such purpose, the Contractor shall furnish such enclosed working space as the Lender or Commissioner may require and find acceptable as to location, size, accommodations and furnishings.

B. The Commissioner shall also have the right to interpret the Contract Documents and to determine compliance therewith.

Article 9 - Assignments, Subcontracts and Termination

A. This Contract shall not be assignable by either party without the prior written consent of the other party, the Lender and the Commissioner, except that the Owner may assign the Contract, or any rights hereunder, to the Lender or the Commissioner.

B. The Contractor shall not subcontract all of the work to be performed hereunder without the prior written consent of the Owner, the Lender and the Commissioner.

* Performance Bond - Dual Obligee	$ 3,854,766.00
Payment Bond	$ 3,854,766.00

C. Upon request by the Owner, the Lender or the Commissioner, the Contractor shall disclose the names of all persons with whom it has contracted or will contract with respect to work to be done and materials and equipment to be furnished hereunder.

D. The Contractor understands that the work under this contract is to be financed by a building loan to be secured by a mortgage and insured by the Commissioner, and that the terms of said loan are set forth in a Building Loan Agreement between the Owner as Borrower and

as Lender.

The Contractor further understands that said Building Loan Agreement provides that, in the event of the failure of the Owner to perform its obligations to the Lender thereunder, the Lender may, as attorney-in-fact for the Owner, undertake the completion of the project in accordance with this Contract. In the event the Lender elects not to undertake such completion, the Contractor's obligations under this contract shall terminate.

Article 10 - Certification of Actual Cost

A. The "actual cost of construction", as used in Article 3 above, shall include all items of cost and expense incurred by the Contractor in the performance of this Contract, including costs and expenses of labor, materials for construction, equipment and fixtures, field engineering, sales taxes, workmen's compensation insurance, social security, public liability insurance, job overhead and all other expenses directly connected with construction, and including general overhead expenses, but excluding kick-backs, rebates or discounts received or receivable in connection with the construction of the project; and excluding any return on or cost of the Contractor's working capital, such return on or cost of working capital being a part of or to be paid from the Contractor's fee or profit.

B. The Contractor shall keep accurate records of account of the said actual cost of construction, and shall, upon demand, make such records and invoices, receipts, subcontracts and other information pertaining to the construction of the project available for inspection by the Owner and the Commissioner.

C. With its final application for payment, the Contractor shall furnish to the Owner a completed "Contractor's Certificate of Actual Cost", which shall be accompanied and supported by an independent public accountant's certificate as to actual cost (in form acceptable to the Commissioner).

D. The Contractor shall include in all subcontracts, equipment leases and purchase orders a provision requiring the subcontractor, equipment lessor or supplier to certify its costs incurred in connection with the project, in the event the Commissioner determines there is an identity of interest between either the Owner or the Contractor and any such subcontractor, equipment lessor or supplier.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the date herein stated.

OWNER
BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION

BY _____
Joseph Jeffers, President

CONTRACTOR
F.W. EVERSLEY & CO., INC.

BY _____
F.W. Eversley, Jr., President

Form No. 2328
Rev. 1963

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Budget Bureau No. 63-R1317

Date: June 19, 1970

Mortgagor: BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.

CONTRACTOR'S and/or MORTGAGOR'S COST BREAKDOWN
(SCHEDULES OF VALUES)

103

Project No.: 012-44002 MP

Building Identification: Brownsville. Site "D"

Name of Project:

Location: Brooklyn, New York
Stone Ave., New Lots Ave., Lott Ave.

This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included on the reverse side.

Div	TRADE ITEM	COST	TRADE DESCRIPTION	NAME OF CONTRACTOR AND/OR SUBCONTRACTOR
3	Concrete	609400		DeSimone Bros. Inc.
4	Masonry	1255000		
5	Metals	463100		Midland Iron Works
6	Rough Carpentry	758805		Trans Urban Constr. Co. Inc
6	Finish Carpentry	91195		" " " "
7	Waterproofing	22400		" " " "
7	Insulation	8500		" " " "
7	Roofing	46200		Colonial Roofing Co., Inc
7	Sheet Metal	-		
8	Doors	210150		Arch Opening Steel Buck
8	Windows	68500		Alwinseal
8	Glass	30000		
9	Lath & Plaster	15000		
9	Drywall	401500		Belmont Partitions
9	Tile Work	47500		C. N. Crocetti Inc.
9	Acoustical	-		
9	Wood Flooring	-		
9	Resilient Flooring	110000		Circle Floor
9	Painting & Decorating	130000		Gedell Painting Corp.
10	Specialties	21177	Med. Cab., Hamper Dryer M/L	
11	Special Equipment			
11	Cabinets	107050	Kit. Cab. Vanity M/L	
11	Appliances	87875	Refrig. & Ranges M/L	
12	Blinds & Shades, Artwork	9000		
12	Carpets	-		
13	Special Construction	39907	Chutes, Compactors, Lobby M/L	
14	Elevators	184400		Staley
15	Plumbing & Hot Water	684000		A Rosen & Son
15	Heat & Ventilation	594000		Zachary - Steven
15	Air Conditioning	18000		
16	Electrical	376500		
	Accessory Buildings	-		
	TOTAL STRUCTURE(S)	6390259		
2	Earth Work	186079		
2	Site Utilities	11000		
2	Roads & Walks	83300		
2	Site Improvements	15000		
2	Lawns & Planting	40700		
2	Unusual Site Condition	100000		
	TOTAL LAND IMPRVTS.	436079		
	TOT. STRUCT. & LAND IMPRVTS.	6826338		
1J	GENERAL REQUIREMENTS	403041		
	SUBTOTAL (Lines 41 and 42)	7229379		
	BUILDER'S OVERHEAD	106000		
	BUILDER'S PROFIT	284521		
	SUBTOTAL (Lines 43 thru 45)	7620700		
	OTHER FEES			
	BOND PREMIUM	76526		
	TOTAL FOR ALL IMPROVEMENTS	7697226		

NONRESIDENTIAL AND SPECIAL EXTERIOR LAND IMPROVEMENT
(costs included in trade item breakdown)

DESCRIPTION	EST. COST

TOTAL $

OFFSITE COSTS
(costs not included in trade item breakdown)

DESCRIPTION	EST. COST
Sidewalk	31,325
Curb & Trees	
Sewer Work	50,000
TOTAL $	81,325

DEMOLITION
(costs not included in trade item breakdown)

DESCRIPTION	EST. COST

TOTAL $

Contractor: F.W. EVERSLEY & CO., INC.
By: F.W. Eversley Jr. (Frederick W. Eversley, Jr., President) Date: June 19, 1970

Mortgagor: Brownsville Housing Development Fund Corp.
By: [signature] Date: July 15, 1970

FHA: [signature] Date: JUL 21 1970
Chief Underwriter

Project No. 012-44002 M
Noble Drew Ali
Brooklyn, New York

November 18, 1970

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ADDENDUM TO CLOSING DRAWINGS AND SPECIFICATIONS

The Dept. of H.U.D., New York Area office agrees to accept and process the following change order including the costs as indicated. The change order shall be filed after initial endorcement but no additional monies will be made available because of this change order before final endorcement.

Scope: The following corrections, additions, revisions and modifications shall be subject to the same governing conditions of the contract and other regulations and requirements applicable to the original respective parts of the contract.

1. Upon careful review by qualified engineers and if it is their determination that soil conditions dictate that the footings of the buildings must be lowered, plans and specifications will be filed for the following changes:

The East Bldg. foundation wall was dropped 1'-9" adding 1.75 ft. of foundation wall. The West Bldg. foundation wall was dropped 2'-6" adding 2½ ft. of concrete foundation wall, total = 7000 linear feet. These changes necessitates 700 cubic yards more of concrete and 1400 cubic yards more of dirt excavation. = $77,000.00.

2a. Corrections to the drawings will also be made as indicated. Hand rails must be added to both sides of all concrete basement ramps. 5 ramps, each 50 ft. long 2 rails need per ramp = 500 linear ft. of railing = $6,000.

2b. Four (4) new stair entrances to the basements of the bldgs. 3 new entrances on the West Bldg, 1 on the East Bldg.

The additional work for the four new entrances consists of:

50 ft. of hand railing
36 concrete steps
4 concrete landings
36 nonslip steel step nosings
4 door bucks and doors and hardware
4 outside drains and connecting piping
4 outside light fixtures and wiring
4 exterior concrete walls 100 sq. ft. each = $12,000.

2c. A new exterior stair detail on drawing #7 will show nonslip steel bullnosing on all exterior entrance stairs. 5 entrances each with 9 threads, each tread 10 ft. long. =$1,200.

2d. Details for the nine (9) elevator machine rooms on Drawing #13, and #14 will show reinforcement rods in concrete rather than wire mesh. 224 sq. ft. of elevator room x 9 rooms Total = $3,100.

2e. On drawing #17 a new 12 inch concrete wall will be added in lieu of the 6 inch masonry wall next to the crawl space area 240 ft. of concrete wall minus cost of 240 ft. of 6 inch masonry wall = 750.00

TOTAL $100,050.00

Noble Drew Ali
Brooklyn, New York

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ADDENDUM TO CLOSING DRAWINGS AND SPECIFICATIONS (continued)

3. The following clarifications will also be made and accepted:

1. As per processing plans, no steel or concrete flooring is to be placed over Crawl Space areas (all 8x10 wood beams).

2. As per processing plans no rubber base is to be put in laundry rooms (they have concrete, not tile floors)

3. In the event of conflicts between the drawings and the specifications, the information as shown on the drawing shall take absolute precedence over that stated in the specifications.

4. Before the above work is initiated, Drawings and Specifications covering the above items are to be submitted for F.H.A. acceptance.

TITLES & SIGNATURES

ARCHITECTS: Roger DeCourcy Glasgow, A.I.A. — Nov. 18 1970

CONTRACTOR: — Nov. 18 1970

OWNER-SPONSOR: — Nov. 18 1970

MORTAGEE: — Nov. 18 1970

BONDING COMPANY:

B 106

HA FORM NO. 2413
ev. 6/69

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
Budget Bureau No. 63-R0571

CONTRACTOR'S REQUISITION
PROJECT MORTGAGES
(TO BE SUBMITTED TO MORTGAGEE IN QUADRUPLICATE)

Project No. 012-44002 NR

Requisition No. 12

O BROWNSVILLE HOUSING DEVELOPMENT FUND CORP. Owner

ROJECT NOBLE DREW ALI PLAZA LOCATION Stone, New Lots & Lott Aves. Blyn. NY

n accordance with the provision of the Construction Contract dated Nov. 15 70 and Contractors and/or Mortgagors Cost Breakdown (Schedule of Values) ttached thereto, this requisition is submitted for the amount of $ 433,976 due for work performed up to the 19 day of November 197 and as itemized below by the trades listed in the Cost Breakdown.

DIV.	TRADE ITEM		A COST AS PER COST BREAKDOWN	B AMOUNTS COMPLETE	C FOR FHA USE
			ENTER AMOUNTS TO NEAREST EVEN DOLLAR		
3	Concrete	15	$ 609,400	$ 517,990	$
4	Masonry	90	1,256,000	1,130,400	
5	Metals	37	463,100	412,159	
6	Rough Carpentry	83	758,805	629,808	
6	Finish Carpentry		91,195		
7	Waterproofing	69	22,400	15,232	
7	Insulation	33	8,500	2,805	
7	Roofing	37	46,200	17,094	
7	Sheet Metal				
8	Doors	21	210,150	58,842	
8	Windows	80	68,600	54,880	
8	Glass	4	30,000	1,200	
9	Lath and Plaster		15,000		
9	Drywall	22	401,500	88,330	
9	Tile Work		47,500		
9	Acoustical				
9	Wood Flooring				
9	Resilient Flooring		110,000		
9	Painting and Decorating		130,000		
10	Specialties		21,177		
11	Special Equipment				
11	Cabinets		107,030		
11	Appliances		87,875		
12	Blinds and Shades, Artwork		9,000		
12	Carpets				
13	Special Construction	77	39,907	30,728	
14	Elevators	23	184,400	42,412	
15	Plumbing and Hot Water	82	684,000	560,880	
15	Heat and Ventilation	72	594,000	427,680	
15	Air Conditioning	95	18,000	17,100	
16	Electrical	72	376,500	271,080	
	Accessory Buildings:				
2	Earth Work	95	186,079	176,775	
2	Site Utilities		11,000		
2	Roads and Walks		83,300		
2	Site Improvement		15,000		
2	Lawns and Planting		40,700		
2	Unusual Site Conditions	93	100,000	93,000	
1	General Requirements		403,041	268,425	
1	Bond Premium $ 76,526				
	(1) SUBTOT. OF FOREGOING ITEMS (Excl. Bond Premium)		$ 7,229,379	% $ 4,816,820	% $
	(2) BUILDER'S OVERHEAD		$ 106,000	% $ 71,129	% $
	(3) BUILDER'S PROFIT		$ 284,521	% $ 189,491	% $
	(4) TOTAL OF COST BREAKDOWN ITEMS		$ 7,620,700	$ 5,077,440	$
	(5) INVENTORY OF MATERIALS STORED ON SITE (See NOTE Below)			$	$
	(6) SUM OF COST BREAKDOWN ITEMS PLUS INVENTORIES OF MATERIALS			$ 5,077,440	$
	(7) LESS NET DECREASE (INCREASE) AS A RESULT OF APPROVED CHANGES			$	$
	(8) TOTAL AMOUNT EARNED TO DATE ON APPROVED CONTRACT		X	$ 5,077,440	$
	(9) LESS RETAINAGE		%	$ 507,744	$
	(10) BAL. TOTAL AMOUNT DUE TO DATE ON ACCOUNT OF CONSTRUCTION CONTRACT			$ 4,569,696	$
	(11) LESS PREVIOUS REQUISITIONS			$ 4,135,720	$
	(12) NET AMOUNT DUE ON THIS REQUISITION			$ 433,976	$

I/We hereby certify that I/We have received payment, in cash, of $ 4,135,720 up to the date hereof on the construction contract applicable to this project.

Date November 22, 1971 BY: BROWNSVILLE H. DEV. CO., INC. Contractor

* Contractor certifies that all previous progress payments received from Mortgagor have been (or will be) disbursed by him to (Sub-Contractors, Suppliers, etc.) in accordance with their respective interests therein.

NOTE: Attached inventory of materials stored on site, itemized as to quantities and costs, also, comply with the Construction Contract, FHA as to submission of surety and certificates.

FOR USE OF FEDERAL HOUSING ADMINISTRATION

Date _____ Net Amount Approved For Payment $ _____

COMPUTED BY _____ MORTGAGEE OR DISBURSING AGENT

REVIEWED AND APPROVED BY _____ DATE _____

B 107

REQUEST FOR PAYMENT

(For use of mortgagor. To be submitted to mortgagee in quadruplicate)

Project name NOBLE DREW ALI PLAZA I Project No. 012-44002 NP

To MANUFACTRUERS HANOVER TRUST COMPANY, Mortgagee

The undersigned Mortgagor hereby requests a payment in the sum of $ _____ covering advances provided for by the Building Loan Agreement heretofore executed on the _____ day of _____, 196 , as indicated by the total amount of the individual payments set forth in the schedule below.

PAYMENTS REQUESTED

All items shall be clearly identified by description. No item shall be applied for until payment is due.

A request covering construction cost shall show one entry for the total payment requested to meet the net amount due according to the Contractor's Requisition, Form 2448 attached hereto. The request for the first payment on account of the Architect's cash fee shall be accompanied by Mortgagor's and Architect's Certificate, Form No. 2403-1, attached hereto. Requests for subsequent payments on account of this fee shall be made simultaneously with the request for payments to cover the Contractor's Requisition.

Item	*Amount*
Architect's Fee (6.3% of $37,183.00)	$ 2,343
Contractor's Requisition #12	433,976
TOTAL	$

The undersigned hereby certifies that all of the above items, except interest and any sum identified as 'Contractor's Requisition' No. _____, have been paid, and we hand you herewith full receipts covering such items enumerated. With respect to any item of interest enumerated above, we herewith authorize you to advance same and charge our account therewith.

It is also certified that all prior work and the work, labor, and materials to be paid for under this Request are satisfactory and are in accordance with the contract drawings.

_____
Mortgagor.

Date _____ By _____

Architect's Certificate

(Not required if this request does not include a payment on account of construction cost)

I certify that I (or any authorized representative) have visited the project, within _____ days prior to the date of this Certificate, to determine the true basis of cost upon which I hereby certify this payment. I further certify that all prior work and the work labor, and materials, to be paid for under this Request for Payment are satisfactory and in accordance with the Contract Drawings.

_____
Architect

Date _____ By _____

GPO 675-023

Rev. [illegible] 71

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

B 108

PERMISSION TO OCCUPY — PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name	Project No.
Noble Drew Ali Plaza 1	012-44002-NP-R
Project Location	**Request No.**
37 New Lots Avenue, Bklyn, N.Y. 11212	1

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration

Permission is requested for the occupancy of 155 (Number) living units identified as 11-21 New Lots Avenue, 23-25 New Lots Avenue, 230-232 Lott Avenue, 240-242 Lott Avenue

and located in West Building-2 Storefronts, Bldgs. 2, 3 and 4
(Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.
37 New Lots Ave., Brooklyn, N. Y. 11212
Mortgagor

Date January 24, 1973 By Joseph [illegible] El Pres.

ARCHITECT'S CERTIFICATE OF SUBSTANTIAL COMPLETION

I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract documents so that owner may occupy the above described living or service units for the uses intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Date JAN 25 TH 1973 ROGER D. GLASGOW, AIA
Supervisory Architect

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F. W. EVERSLEY & CO., Inc.
Contractor

Date January 23, 1973 By F.W. Eversley, Jr. - President

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

MANUFACTURERS HANOVER TRUST COMPANY
Mortgagee

Date _____ By _____

To: _____
Name of Mortgagee

_____
Street Address

_____
City-State

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

_____

_____

_____

Inspected _____ By _____
(Date) ☐ *Architectural* ☐ *Construction Representative*

Approved ☐ as reported above; ☐ as modified by me _____
☐ *Chief Architecture & Engineering Section* ☐ *Deputy*

Approved: Date _____ By _____
☐ *Chief Underwriter;* ☐ *Assistant Director for Technical Services* ☐ *Deputy*

PERMISSION TO OCCUPY

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date _____ By _____
(Authorized agent)

2485 – PERMISSION TO OCCUPY

2485-1 Rev. 12-71 [illegible]

BOROUGH OF BROOKLYN 109, THE CITY OF NEW YORK

Date JAN 18 1973 No. 208561

CERTIFICATE OF OCCUPANCY

NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE SHALL BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT

This certificate supersedes ~~C.O. No.~~

THIS CERTIFIES that the new ~~alteration existing~~ building premises located at 11-21 & 23 & 25 New Lots Avenue, #230-232 and 240-242 Lott Avenue Block 3628 Lot 1

That the zoning lot and premises above referred to are situated, bounded and described as follows:

BEGINNING at a point on the ~~easterly~~ Northwest corner formed by the intersection of New Lots Avenue and Hegeman Avenue

running thence Northeast 308.95" feet; thence North 447.68" feet;
thence West 460.0" feet; thence South 90.0" feet;
running thence East 109.0" feet; thence South 460.0" feet;
East 66.75"

to the point or place of beginning, conforms substantially to the approved plans and specifications, and to the requirements of the Building Code, the Zoning Resolution and all other laws and ordinances, and of the rules of the Board of Standards and Appeals, applicable to a building of its class and kind at the time the permit was issued; and

CERTIFIES FURTHER that, any provisions of Section 646F of the New York Charter have been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent.

N.B. ~~Application No.~~ N.B. 1131/69 Construction classification—Class 3 Nonfireproof

Occupancy classification—Class "A" Multiple Dwelling. Height 6 stories, 63'6" feet.

Date of completion Const. 1/17/73 Located in R 6 Zoning District.

at time of issuance of permit. Plumb. 12/28/72

This certificate is issued subject to the limitations hereinafter specified and to the following resolutions of the Board of Standards and Appeals: and The City Planning Commission: (Calendar numbers to be inserted here)

PERMISSIBLE USE AND OCCUPANCY

Off-Street Parking Spaces Accessory Parking for eighty-five (85) Cars

Off-Street Loading Berths

STORY	LIVE LOADS Lbs. per Sq. Ft.	PERSONS ACCOMMODATED	USE
Cellar	On Ground	-	Storage, Boiler Room, Refuse Room
First	40	-	Thirty-five (35) Apartments
Second	40	-	Forty (40) Apartments
Third	40	-	Forty (40) Apartments
Fourth	40	-	Forty (40) Apartments
			Accessory Parking for eighty-five (85) Cars
	TOTAL:		One Hundred and fifty-five (155) Apartments and Accessory parking for eighty-five (85) Cars.
	Note:		Public Assisted Housing
Certificate of Approval #330 #332, dated January 18, 1973 (Fuel Oil)			
	TEMPORARY:		Ninety (90) Days - Expires April 18, 1973.

Borough Superintendent

ORIGINAL

Rev. 10/71

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB No. 63-R110

PERMISSION TO OCCUPY — PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name	Project No.
NOBLE DREW ALI PLAZA 1	012-44002-NP-R
Project Location	**Request No.**
Stone, Hegeman, & Lott Avenue	1

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration

Permission is requested for the occupancy of 146 (Number) living units identified as 37 New Lots Avenue and 250-252 Lott Avenue

and located in East Building (Building #1 and Building #5)
(Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
Mortgagor

Date August 8, 1972 By [signature] Pres.

ARCHITECT'S CERTIFICATE OF SUBSTANTIAL COMPLETION

I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract documents so that owner may occupy the above described living or service units for the use intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Date August 8, 1972 [signature] ROGER D. GLASGOW, AIA
Supervisory Architect

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F. W. EVERSLEY & CO., INC.
Contractor

Date August 9, 1972 By [signature]

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

MANUFACTURER'S HANOVER TRUST COMPANY
Mortgagee

Date _____ By _____

To: Manufacturer's Hanover Trust Company
Name of Mortgagee
350 Park Avenue
Street Address
New York, N. Y.
City-State

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected _____ (Date) By _____ ☐ Architectural ☐ Construction Representative

Approved ☐ as reported above; ☐ as modified by me ☐ Chief Architecture & Engineering Section ☐ Deputy

Approved: Date _____ By _____ ☐ Chief Underwriter; ☐ Assistant Director for Technical Services ☐ Deputy

PERMISSION TO OCCUPY

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date _____ By _____
(Authorized signature)

2435 – PERMISSION TO OCCUPY

(Rev. 4/62)-80M-601036(62) — 114

Copies 8/25/72
to Marcia
2) FHA - Hoffman
3) OWNER
4) LASSMAN H DA

B 111

DEPARTMENT OF BUILDINGS

BOROUGH OF BROOKLYN, THE CITY OF NEW YORK

Date AUG 25 1972 No. 207804

CERTIFICATE OF OCCUPANCY

NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE SHALL BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT

This certificate supersedes C. O. No.

THIS CERTIFIES that the new—~~alteration~~—building—premises located at #37 New Lots Avenue, #250-252 Lott Avenue Block 3628 Lot 1

That the zoning lot and premises above referred to are situated, bounded and described as follows:

BEGINNING at a point on the West side of Stone Avenue distant 0 feet 0 from the corner formed by the intersection of Stone Avenue and New Lots Avenue

running thence North 447.68 feet; thence West 460 feet;
thence South 90.0 feet; thence East 100.0 feet;
running thence South 460.0 feet; thence East 66.75 feet;
thence NorthEast 308.95 feet; thence East feet;

to the point or place of beginning, conforms substantially to the approved plans and specifications, and to the requirements of the Building Code, the Zoning Resolution and all other laws and ordinances, and of the rules of the Board of Standards and Appeals, applicable to a building of its class and kind at the time the permit was issued; and

CERTIFIES FURTHER that, any provisions of Section 646F of the New York Charter have been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent.

~~Borough Pres.~~ N.B. 1129/69

Occupancy classification—Class "A" Multiple Dwelling. Construction classification—Class 3 Nonfireproof

Date of completion—Const. 8/23/72 Height 6 stories, 59 feet.

at time of issuance of permit Plumb. 8/22/72 Located in R 6 Zoning District.

This certificate is issued subject to the limitations hereinafter specified and to the following resolutions of the Board of Standards and Appeals:
and The City Planning Commission: (Calendar numbers to be inserted here)

PERMISSIBLE USE AND OCCUPANCY

Off-Street Parking Spaces Accessory Parking for eighty-three (83) Cars.

Off-Street Loading Berths

STORY	LIVE LOADS Lbs. per Sq. Ft.	PERSONS ACCOMMODATED	USE
Cellar	On Ground	-	Boiler Room, compactor room
First	40	-	Twenty-five (25) Apartments
Second	40	-	Twenty-five (25) Apartments
Third	40	-	Twenty-five (25) Apartments
Fourth	40	-	Twenty-five (25) Apartments
Fifth	40	-	Twenty-five (25) Apartments
Sixth	40	-	Twenty-five (25) Apartments

Total: One hundred and fifty (150) Apartments and accessory parking for eighty-three (83) Cars.

Note; Public Assisted Housing

Class "A" Multiple Dwelling

Certificate of Approval #14900 issued August 24, 1972 (Fuel Oil)

TEMPORARY: - Ninety (90) days - Expires November 23, 1972.

FINAL

B 112

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2437
Rev. 11/68

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R0264

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
NOBEL DREW ALI PLAZA 1 BROOKLYN, N.Y.		FHA 012-44002

Name of Contractor	Name of Mortgagor
	BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.

Name of Mortgagee	Date
MANUFACTURERS HANOVER TRUST CO.	10/3/72

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
DELAY TO JOB COMPLETION DUE TO BUILDING TRADES	$	$		
STRIKES DURING MONTHS OF JULY, AUGUST AND SEPT.				
1972. (STEAMFITTERS, ELEVATOR INSTALLERS, TEAMSTERS,				
CONCRETE WORKERS AND OPERATING ENGINEERS)				
DELAY DUE TO THE ABOVE CHANGES 3 MONTHS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$	$	By Date

See Statement on reverse side re: Cooperatives, Nonprofit Mortgagors, Etc.

By: _____ (Authorized official for contractor)

By: _____ (Authorized official for mortgagor)

NOTE: Certification required where Owner-Architect Agreement 2719A or C in effect. ARCHITECT'S CERTIFICATION- I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the Contract Documents and it is my professional recommendation that the changes be approved.

_____ (Project Architect)

The total sum of $ _____ is on deposit with _____ to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No. _____.

By: _____ (Authorized official for mortgagee)

FEDERAL HOUSING ADMINISTRATION FINDINGS

TO: _____, Mortgagee

(a) Effect on cost of previously accepted changes $ _____.

1. MORTGAGOR'S ESTIMATE

(b) Net effect on cost to date - All changes .... $ _____ Decrease _____ Increase

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ _____ $ _____

B. Net effect on construction cost from previous change (FHA Est.) ..... $ _____ $ _____

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ _____ $ _____

3. ☐ Changes _____ are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. ☐ That a total sum of $ _____ is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. ☐ That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting fro acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted fro the amount entered on the line entitled "Sum of Cost Breakdown Items Plus Inventories of Materials" on subsequent contractors requisitions, Form No. 2448. This amount may be modified by later changes.

C. ☐ Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. ☐ There is compliance with the conditions stated on the reverse side.

4. ☐ Changes _____ are not acceptable: For the reasons stated on the reverse side.

MORTGAGE CREDIT	By
	Date

FHA Analysis and Findings Reviewed and Approved.

FEDERAL HOUSING ADMINISTRATION

(Multifamily Coordinator) (Chief Underwriter) (Date) By: (Authorized Agent)

B 113

F. W. EVERSLEY & CO. INC.

Builders - General Contractors - Engineers

307 LENOX AVENUE
NEW YORK. N. Y. 10027

Nobel Drew ALI
F.H.A. #012-44002

BUILDING STRIKE CHANGE ORDER

Although some of the other contractors trades were working during the July to September 1972 period, the actual completion was delayed for a period of three months because the key trades listed on the face of the attached Change Order were on strike.

Thomas Eversley
Vice President

B 114

HA FORM NO. 2419
ev. 6/63

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
Budget Bureau No. 63-R0471

CONTRACTOR'S REQUISITION
PROJECT MORTGAGES
(TO BE SUBMITTED TO MORTGAGEE IN QUADRUPLICATE)

Project No. 012-44002 NP

Requisition No. PPE-FINAL

O BROWNSVILLE HOUSING DEVELOPMENT FUND CORP. Owner

PROJECT NOBLE DREW ALI PLAZA LOCATION Stone, New Lots & Lott Aves. Brklyn, NY

In accordance with the provisions of the Construction Contract dated Nov. 15 70 and Contractors and/or Mortgagors Cost Breakdown (Schedule of Values) attached thereto, this requisition is submitted for the amount of $ 80,772 due for work performed up to the 2 day of November 1973 and as itemized below by the trades listed in the Cost Breakdown.

DIV.	TRADE ITEM	A COST AS PER COST BREAKDOWN	ENTER AMOUNTS TO NEAREST EVEN DOLLAR B AMOUNTS COMPLETE	FOR FHA USE C
3	Concrete	$ 609,400	$ 609,400	$
4	Masonry	1,256,000	1,256,000	
5	Metals	463,100	463,100	
6	Rough Carpentry	758,805	758,805	
6	Finish Carpentry	91,195	91,195	
7	Waterproofing	22,400	22,400	
7	Insulation	8,500	8,500	
7	Roofing	46,200	46,200	
7	Sheet Metal			
8	Doors	210,150	210,150	
8	Windows	68,600	68,600	
8	Glass	30,000	30,000	
9	Lath and Plaster	15,000	15,000	
9	Drywall	401,500	401,500	
9	Tile Work	47,500	47,500	
9	Acoustical			
9	Wood Flooring			
9	Resilient Flooring	110,000	110,000	
9	Painting and Decorating	130,000	130,000	
10	Specialties	21,177	21,177	
11	Special Equipment			
11	Cabinets	107,050	107,050	
11	Appliances	87,875	87,875	
12	Blinds and Shades, Artwork	9,000	9,000	
12	Carpets			
13	Special Construction	39,907	39,907	
14	Elevators	184,400	184,400	
15	Plumbing and Hot Water	681,000	681,000	
15	Heat and Ventilation	594,000	594,000	
15	Air Conditioning	18,000	18,000	
16	Electrical	376,500	376,500	
	Accessory Buildings:			
2	Earth Work	186,079	186,079	
2	Site Utilities	11,000	11,000	
2	Roads and Walks	83,300	83,300	
2	Site Improvement	15,000	15,000	
2	Lawns and Planting	40,700	40,700	
2	Unusual Site Conditions	100,000	100,000	
1	General Requirements	403,021	403,021	
1	Bond Premium 25,525			
	(1) SUBTOTAL OF ABOVE ITEMS 3 thru 16	$ 7,229,379	% $7,229,379	% $
	(2) BUILDER'S OVERHEAD	$ 105,600	% $ 105,600	% $
	(3) BUILDER'S PROFIT	$ 285,721	% $ 285,721	% $
	(4) TOTAL OF COST BREAKDOWN ITEMS	$ 7,620,700	$7,620,700	$
	(5) INVENTORY OF MATERIALS TO BE USED (See Note Below)		$	$
	(6) SUBTOTAL (Sum of Items 4 plus or minus 5)		$7,620,700	$
	(7) LESS 10% OF ITEM 6 (RETAINAGE)		$	$
	(8) TOTAL AMOUNT EARNED TO DATE (Deduct 7 from 6)		$7,620,700	$
	(9) LESS PREVIOUS PAYMENTS 5%		$ 351,035	$
	(10) BALANCE AMOUNT DUE TO DATE (Deduct 9 from 8)		$7,232,665	$
	(11) LESS 20% OF ITEM 3 RETAINAGE		$7,158,893	$
	(12) NET AMOUNT DUE THIS REQUISITION		$ 80,772	$

I/We hereby certify that I/we have received payment, in cash, of $ 7,158,893 on account of the Construction Contract for the above project.

Date November 2, 1973

NOTE: Materials delivered to the site but not incorporated in the work and costs, if any, to be incurred in connection with the Construction Contract, FHA may in its discretion allow payment for all or part thereof.

FOR USE OF F.H.A. OR HOUSING ADMINISTRATION

Date

Net Amount Approved For Payment $

MORTGAGE CORPORATION

B 115

FHA FORM NO. 2403-A
Rev. 6/63

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

CONTRACTOR'S PREVAILING WAGE CERTIFICATE

(For use under all sections of the National Housing Act requiring certification as to payment of prevailing wages. To be submitted with each request for insurance of advance of mortgage proceeds which includes a payment on account of construction cost, or at the time the mortgage is presented for insurance pursuant to a commitment to insure upon completion)

To: Federal Housing Commissioner Date November 2, 1973 Advance No. PRE-FINAL

c/o John P. Mayfield, Director Project Name NOBLE DRIVE ALL PLAZA
120 Church Street
New York, N.Y. Insuring Office Project No. 012-44003 MP

1. The undersigned, as principal contractor in connection with the construction of the above project, states that he is fully familiar with the applicable wage determination decision of the Secretary of Labor.

2. He certifies that:

   (a) A copy of the applicable wage determination decision is posted in a conspicuous place at the site of the work and he has required each subcontractor as a part of his contract, to agree to pay wages at rates not less than those contained in the decision.

   (b) All laborers and mechanics employed in the construction of the project have been, to the date hereof, paid for such employment at wage rates not less than those contained in the applicable wage determination decision of the Secretary of Labor and no deductions or rebates have been made, either directly or indirectly, from the full weekly wages earned by any person, other than permissible deductions as defined in Regulations of the Secretary of Labor, Part 3 (29 CFR Part 3).

   (c) He has fulfilled his obligations, to the date hereof, under Conditions 9, 10, 11, 12 and 13 of the FHA Supplementary General Conditions and has included said conditions in all subcontracts.

3. This certificate is executed by the undersigned for the purpose of inducing the Commissioner to approve for insurance that certain mortgage loan, or an advance thereof, made or to be made by the mortgagee in connection with the construction of the project, and with the intent that the Commissioner rely upon this certification to establish compliance with the provisions of Section 212 of the National Housing Act, which provides in part: The Commissioner shall not insure . . . unless the principal contractor files a certificate . . . certifying that the laborers and mechanics . . . have been paid not less than the wages prevailing . . . as determined by the Secretary of Labor . . ."

F.W. EVERSLEY & CO., INC.
Contractor

By [signature]

WARNING

U. S. Criminal Code, Section 1010, Title 18, U. S. C., "Federal Housing Administration transactions" provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, passes, utters, or publishes any statement, knowing the same to be false, . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both."

[illegible] D. C.

B 116

FHA FORM NO. 2419
Rev. 6/63

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
Budget Bureau No. 63-R0471

CONTRACTOR'S REQUISITION
PROJECT MORTGAGES
(TO BE SUBMITTED TO MORTGAGEE IN QUADRUPLICATE)

Project No. 012-44002 NP

Requisition No. FINAL

BROWNSVILLE HOUSING DEVELOPMENT FUND CORP. Owner

PROJECT NOBLE DREW ALI PLAZA LOCATION Stone, New Lots & Lott Aves. Eklyn, NY

In accordance with the provision of the Construction Contract dated Nov. 15, 70 and Contractors and/or Mortgagors Cost Breakdown (Schedule of Values) attached thereto, this requisition is submitted for the amount of $ 381,035 due for work performed up to the 2 day of November 1973, and as itemized below by the trades listed in the Cost Breakdown.

DIV.	TRADE ITEM	A COST AS PER COST BREAKDOWN	ENTER AMOUNTS TO NEAREST EVEN DOLLAR B AMOUNTS COMPLETE	FOR FHA USE C
3	Concrete	$ 600,400	$ 600,400	
4	Masonry	1,256,000	1,256,000	
5	Metals	463,100	463,100	
6	Rough Carpentry	758,805	758,805	
6	Finish Carpentry	91,195	91,195	
7	Waterproofing	22,400	22,400	
7	Insulation	8,500	8,500	
7	Roofing	46,200	46,200	
7	Sheet Metal			
8	Doors	210,150	210,150	
8	Windows	68,600	68,600	
8	Glass	30,000	30,000	
9	Lath and Plaster	15,000	15,000	
9	Drywall	401,500	401,500	
9	Tile Work	47,500	47,500	
9	Acoustical			
9	Wood Flooring			
9	Resilient Flooring	110,000	110,000	
9	Painting and Decorating	130,000	130,000	
10	Specialties	21,177	21,177	
11	Special Equipment			
11	Cabinets	107,050	107,050	
11	Appliances	87,675	87,675	
12	Blinds and Shades, Awnings	9,000	9,000	
12	Carpets			
13	Special Construction	39,907	39,907	
14	Elevators	184,400	184,400	
15	Plumbing and Hot Water	684,000	684,000	
15	Heating and Ventilating	594,000	594,000	
15	Air Conditioning	18,000	18,000	
16	Electrical	376,500	376,500	
	Accessory Buildings			
2	Earth Work	186,079	186,079	
2	Site Utilities	11,000	11,000	
2	Roads and Walks	83,300	83,300	
2	Site Improvement	15,000	15,000	
2	Lawns and Planting	40,700	40,700	
2	Unusual Site Conditions	100,000	100,000	
1	General Requirements	403,041	403,041	
1	[illegible]			
(1)	[illegible]	$ 7,220,372	$ 7,220,372	$
(2)	[illegible]	$ 105,[illegible]	$ 105,[illegible]	$
(3)	[illegible]	$ 335,521	$ 264,521	$
(4)	TOTAL COST [illegible]	$ 7,620,700	$ 7,620,700	$
(5)	[illegible]		$	$
(6)	[illegible]		$ 7,620,700	$
(7)	[illegible]		$	$
(8)	[illegible]		$ 7,620,700	$
(9)	[illegible]		$	$
(10)	[illegible]		$ 7,620,700	$
(11)	[illegible]		$ 7,239,665	$
(12)	[illegible]		$ 381,035	$

(13) The [illegible] paid, or to be paid, in cash, of $ 7,239,665 up to the date hereof on the construction contract covered by this Requisition.

Date November 2, 1973

[illegible]

Date

[illegible] Amount Approved for Payment $

[illegible]

B 117

FHA FORM NO. 2403-A
Rev. 6/63

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

CONTRACTOR'S PREVAILING WAGE CERTIFICATE

(For use under all sections of the National Housing Act requiring certification as to payment of prevailing wages. To be submitted with each request for insurance of advance of mortgage proceeds which includes a payment on account of construction cost, or at the time the mortgage is presented for insurance pursuant to a commitment to insure upon completion.)

To: Federal Housing Commissioner Date November 2, 1973 Advance No. FINAL

c/o John D. Verdon, Director Project Name NOBLE DRIVE ARMY PLAZA
120 Church Street
New York, N.Y. Insuring Office Project No. 012-44002 LP

1. The undersigned, as principal contractor in connection with the construction of the above project, states that he is fully familiar with the applicable wage determination decision of the Secretary of Labor.

2. He certifies that:

   (a) A copy of the applicable wage determination decision is posted in a conspicuous place at the site of the work and he has required each subcontractor, as a part of his contract, to agree to pay wages at rates not less than those contained in the decision.

   (b) All laborers and mechanics employed in the construction of the project have been, to the date hereof, paid for such employment at wage rates not less than those contained in the applicable wage determination decision of the Secretary of Labor and no deductions or rebates have been made, either directly or indirectly, from the full weekly wages earned by any person, other than permissible deductions as defined in Regulations of the Secretary of Labor, Part 3 (29 CFR Part 3).

   (c) He has fulfilled his obligations, to the date hereof, under Conditions 9, 10, 11, 12 and 13 of the FHA Supplementary General Conditions and has included said conditions in all subcontracts.

3. This certificate is executed by the undersigned for the purpose of inducing the Commissioner to approve for insurance that certain mortgage loan, or an advance thereof, made or to be made by the mortgagee in connection with the construction of the project, and with the intent that the Commissioner rely upon this certification to establish compliance with the provisions of Section 212 of the National Housing Act, which provides in part: "The Commissioner shall not insure . . . unless the principal contractor files a certificate . . . certifying that the laborers and mechanics . . . have been paid not less than the wages prevailing . . . as determined by the Secretary of Labor . . ."

P.W. DIVISION & CO., INC.
Contractor

By [signature]

WARNING

U. S. Criminal Code, Section 1010, Title 18, U. S. C., "Federal Housing Administration transactions," provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, passes, utters or publishes any statement, knowing the same to be false, . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both."

MAIN LAFRENTZ & CO.
CERTIFIED PUBLIC ACCOUNTANTS

OFFICES OR ASSOCIATED FIRMS
U.S.A., CANADA, MEXICO, SOUTH AMERICA
GREAT BRITAIN, EUROPE, MIDDLE EAST
AUSTRALIA, AFRICA

280 PARK AVENUE
NEW YORK 10017
212 867-9100

The Board of Directors
F. W. Eversley & Co., Inc.

We have examined the accompanying FHA Form No. 2330-A, Contractor's Certificate of Actual Cost, of F. W. Eversley & Co., Inc. relating to their general contractor work on the Noble Drew Ali Plaza - Site D project located at Stone, New Lots and Lott Avenues, Brooklyn, New York, and identified as FHA Project Number 012-44002 NP. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, such FHA Form No. 2330-A presents fairly the actual cost as of January 15, 1973, totalling $7,722,515, of their general contractor work on FHA Project Number 012-44002 NP, in conformity with generally accepted accounting principles, and gives effect to the instructions issued by the Federal Housing Commissioner for the recognition of such costs.

We certify that we have no financial interest in the contractor other than in the practice of our profession.

Main Lafrentz & Co.

New York, New York
February 12, 1973

B 119

A FORM NO. 2330-A
v. 12/71

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
OMB No. 63-R0776

CONTRACTOR'S CERTIFICATE OF ACTUAL COST

Mortgagor: Brownsville Housing Development Fund Co., Inc.

Contractor: W. Eversley & Co., Inc.

Project No.: C12 - 44002 NP

Building Number:

Name of Project: Noble Drew Ali Plaza - Site D

Location: Stone, New Lots & Lott Avenues Brooklyn, N. Y.

Gentlemen:

This Certificate is made pursuant to the provisions of the Construction Contract, entered into by and between us under date of November 18, 1970, and it is understood and agreed by the undersigned that this Certificate is to be submitted by you to the Federal Housing Commissioner in order to induce the Commissioner to finally indorse the mortgage for insurance.

The actual cost incurred in the completion of construction under the above Construction Contract and accepted construction changes exclusive of all kick-backs, rebates and discounts received in connection with the construction of the project is itemized below.

Div.	TRADE ITEM	PAID IN CASH	TO BE PAID IN CASH	TOTAL	NAME OF SUBCONTRACTOR OR PAYEE	Line
3	Concrete	555,853	32,922	588,775	De Simone Excav. & Fndn; Gayle	1
4	Masonry	1,218,558	80,656	1,299,214	Cadin-Koehler; City-Wide	2
5	Metals	383,253	31,636	414,889	Midland Iron; Fireproof Prods.	3
6	Rough Carpentry	893,645	-	893,645	Trans Urban; Blackwood Constr.	4
6	Finish Carpentry	91,195	1,497	92,692	Trans Urban; Maxwell Lumber	5
7	Waterproofing	8,338	462	8,800	Trans Urban; AAA Waterproofing	6
7	Insulation	9,600	-	9,600	Trans Urban	7
7	Roofing	40,975	-	40,975	Sepia Roofing; Kingsway Roofing	8
7	Sheet Metal					9
8	Doors	134,627	30,399	165,026	Arch. Opening; Martin Katz	10
8	Windows	94,595	-	94,595	WT Industries; Kilroy Metal	11
8	Glass	5,568	7,596	13,164	Jerome Aluminum Products	12
9	Lath and Plaster	16,249	1,565	17,814	Medford Saunders; Wm. Isherwood	13
9	Drywall	424,295	46,177	470,472	Belmont Partition Co., Inc.	14
9	Tile Work	88,445	6,555	95,000	G. M. Crocetti Co., Inc.	15
9	Accoustical					16
9	Wood Flooring					17
9	Resilient Flooring	98,415	30,498	128,913	Circle Floor Co., Inc.	18
9	Painting and Decorating	98,862	36,304	135,166	Andrel J. Guthman Conttacting Co., Inc	19
10	Specialities	13,052	739	13,791	G. M. Ketcham Mfg.; Bode Metal	20
11	Special Equipment					21
11	Cabinets	69,848	264	70,112	American Cabinet	22
11	Appliances	54,350	39,866	94,216	General Electric; Stove Sales	23
12	[illegible] Shades, [illegible]	5,292	4,508	9,800	Robb Decorators	24
12	Carpets					25
13	Special Construction	16,862	12,000	28,862	Wilkinson Chute; Hico Corp.	26
14	Elevators	168,480	40,810	209,290	Staley Elevator Inc.	27
15	Plumbing and Hot Water	660,852	40,648	701,500	Zachary Plumbing	28
15	Heat and Ventilation	669,592	58,908	728,500	Zachary Plumbing; Borg Mechanical	29
15	Air Conditioning	18,151	-	18,151	L & P Electric	30
16	Electrical	332,640	54,653	387,293	Fast Electric; Allied Lighting	31
	Accessory Structures					32
2	Earth Work	127,567	9,930	137,497	De Simone Excav & Fndn.	33
2	Site Utilities					34
2	Roads and Walks	55,575	12,395	67,970	Paveways Construction; Seaboard Sign	35
2	Site Improvements	5,254	3,584	8,838	Ramco Fence	36
2	Lawns and Planting	8,833	7,917	16,750	Cummings; Coming-Up Inc.	37
2	Unusual Site Conditions					38
1	General Requirements	586,352	-	586,352		39
	General Overhead	106,800	-	106,800		40
	Miscellaneous (Labor & Mat.)	32,415	-	32,415		41
	Bond Premium	45,188	-	45,188		42
	Other Fees					43
	Miscellaneous (Escrows)					44
	TOTAL COSTS	7,129,486	593,029	7,722,515		45
	AMOUNT NOT REQUIRED TO BE PAID BY MORTGAGOR					46
	TOTAL ACTUAL COST TO MORTGAGOR					47

NOTE: If additional space is required for these or other items, append Rider thereto, with references and initial. When more than one subcontractor is performing a trade item, the attached work sheet must be completed giving the information indicated

(SEE OTHER SIDE)

B 12-120

ITEMIZED BREAKDOWN

GENERAL REQUIREMENTS
(Job Overhead)

ITEM	TOTAL
Supervision	$ 115,341
Field Engineering	7,506
Field Office Expense	20,363
Temprorary Facilities	64,116
Temporary Utilities	18,956
Cleaning & Rubbish Removal	197,648
Building Permits	19,028
Watchmen Wages	110,941
Small Tools, Misc Supplies	19,418
Travel	11,560
Insurance	1,475
TOTAL FOR GENERAL REQUIREMENTS	$ 506,352

OTHER FEES

ITEM	TOTAL
	$ 106,800
TOTAL	$ 106,800

MISCELLANEOUS MATERIALS *(Not Included in Subcontracts)*

TRADE ITEM	PURCHASED FROM	PAID IN CASH	TO BE PAID IN CASH WITHIN 45 DAYS AFTER FINAL ENDORSEMENT	TOTAL
Damproofing	Weatherguard Products	$ 2,881	$ —	$ 2,881
Hardware	York Bros.	2,157	--	2,157
"	Herson's Door Equipment	327	--	327
"	R & B Supply	2,527	--	2,527
Miscellaneous Items *				
Estimated Cost to Complete				
TOTAL COST OF MATERIALS USED		$	$	$ 7,892

MISCELLANEOUS LABOR *(Not Included in Subcontracts)*

TRADE ITEM	TYPE OF LABOR	AMOUNT PAID IN CASH
Dampproofing, Trenching Unloading & Carrying of Materials, Patching and Punch List Work	General Labor	$ 24,523
Miscellaneous Items *		
Estimated Cost to Complete		
TOTAL COST OF LABOR		$ 24,523

*TOTAL PURCHASES OF MATERIALS AND COST OF LABOR OTHER THAN AS CLASSIFIED ABOVE AMOUNTING TO LESS THAN $1,000 MAY BE INCLUDED AS A LUMP SUM UNDER MISCELLANEOUS ITEMS.

NOTE - TOTAL COSTS FOR GENERAL REQUIREMENTS, GENERAL OVERHEAD, MISCELLANEOUS MATERIALS AND MISCELLANEOU LABOR ARE TO BE TRANSFERED TO APPROPRIATE LINE ON REVERSE SIDE.

The undersigned hereby certifies that: (check one) ☐ There has not been and is not now any identity of interest between mortgagor and/or general contractor on the one hand and any sub-contractor, material supplier or equipment lessor on the other.
☒ Attached to and made a part of this certificate is a signed statement fully describing any identities of interest as set forth in the previous paragraph

All amounts shown have been reduced to give effect to the amount(s) of any kickbacks, rebates, adjustments, discounts, or any other devices which had the effect of reducing the actual cost, and all amounts shown above as "to be paid in cash" will be s paid within forty-five (45) days after final indorsement.

F.W. EVERSLEY & Co, Inc. BY F.W. Eversley Jr. Pres. Date FEBRUARY 1, 1973
Contractor

NOTE: This certificate must be supported by a certification as to actual cost by an independent Certified Public Accountant c by an independent public accountant as required by FHA Forms 3305 and 3305A, or 3306 and 3306A, as the case may be

WARNING: U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpos of . . . influencing in any way the action of such Administration . . . makes, passes, utters, or publishes any statement, knowing the same to be false, . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both."

FORM 2330-A WORK SHEET

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	TRADE ITEM	PAID IN CASH	TO BE PAID IN CASH	TOTAL	NAME OF SUBCONTRACTOR OR PAYEE
	Concrete	503,280	26,008	529,288	De Simone Excav. & Fndns.
		44,000	-	44,000	Trans Urban Construction
		8,573	6,914	15,487	Cayle Construction & Others
		555,853	32,922	588,775	
	Masonry	1,209,460	79,437	1,288,897	Cadin - Koehler J. V.
		1,617	500	2,117	Targora
		7,481	719	8,200	City - Wide Waterproofing
		1,218,558	80,656	1,299,214	
	Metals	362,164	27,673	389,837	Midland
		21,089	3,963	25,052	Fireproof Products; Estey Bros.
		383,253	31,636	414,889	
	Rough Carpentry	892,145	-	892,145	Trans Urban
		1,500	-	1,500	Blackwood Construction
		893,645		893,645	
	Finish Carpentry	91,195	-	91,195	Trans Urban
		-	1,497	1,497	Maxwell Lumber
		91,195	1,497	92,692	
7	Waterproofing	1,100	-	1,100	Trans Urban
		7,238	462	7,700	AAA Waterproofing
		8,338	462	8,800	
	Insulation	9,600	-	9,600	Trans Urban
	Roofing	40,500	-	40,500	Sepia Roofing
		475	-	475	Kingsway Roofing
		40,975		40,975	
	Sheet Metal				
8	Doors	120,690	28,310	149,000	Arch Opening Steel Fuck
		13,937	2,089	16,026	The Martin Katz Corp.
		134,627	30,399	165,026	
8	Windows	87,471	-	87,471	MT Industries
		4,803	-	4,803	Hohmann & Benard & RKI
		2,321	-	2,321	Kilroy Metal Prods.
		94,595		94,595	
8	Glass	5,568	7,596	13,164	Jerome Aluminum
9	Lath and Plaster	11,158	-	11,158	Medford Saunders
		5,091	1,565	6,656	Wm. Isherwood, Inc.
		16,249	1,565	17,814	
9	Drywall	413,900	46,100	460,000	Belmont Partition
		305	617	922	Fred J. Jansons
		414,205	46,717	460,922	
9	Tile Work	88,445	6,555	95,000	G. M. Crocetti Co., Inc.
9	Accoustical				
9	Wood Flooring				
9	Resilient Flooring	98,413	30,493	128,913	Circle Floor Co., Inc.
9	Painting and Decorating	98,862	36,304	135,166	Andre' J. Guthman
10	Specialities	13,052	290	13,342	G. M. Ketchum Mfg., Co.
		-	449	449	Fode Metal
		13,052	739	13,791	

(SEE OTHER SIDE)

11	Special Equipment				
11	Cabinets	69,848	264	70,112	American Cabinet
11	Appliances	28,008	22,227	50,235	General Electric
		26,342	17,639	43,981	Stove Sales
		54,320	39,866	94,216	
12	[illegible] Shades, [illegible]	5,292	4,508	9,800	Robb Decorators
12	Carpets				
13	Special Construction	8,862	-	8,862	Wilkinson Chute
		8.000	12,000	20.000	HICO Corp.
		16,862	12,000	28,862	
14	Elevators	168,480	40,810	209,290	Staley Elevator
15	Plumbing and Hot Water	660,852	40,648	701,500	Zachary Plumbing
15	Heat and Ventilation	2,200	2,300	4,500	Rudy Meine
		585,366	45,634	631,000	Zachary Plumbing
		82.026	10,974	93.000	Dora Mechanical
		669,592	58,908	728,500	
15	Air Conditioning	18,151	-	18,151	L & P Electric
16	Electrical	332,640	52,360	385,000	East Electric
		-	2,293	2,293	Allied Lighting
		332,640	54,653	387,293	
2	Earth Work	116,375	8,625	125,000	De Simone Excav. & Fndn
		11.192	1.305	12.497	Cummings Cleaning & Maintenance
		127,567	9,930	137,497	
2	Site Utilities				(Included in Electrical)
2	Roads and Walks	55,575	9,425	65,000	Paveways Construction
		-	2,970	2,970	Seaboard Sign & Dispaly
		55,575	12,395	67,970	
2	Site Improvements	5,254	584	5,838	Ramco Force
		-	3,000	3,000	Work not performed (Allowance)
		5,254	3,584	8,838	
2	Lawns and Planting	4,320	7,680	12,000	Cummings Cleaning & Maintenanc
		4,513	.237	4,750	Coming - Up Inc.
		8,833	7,917	16,750	
2	Unusual Site Conditions				

FEDERAL HOUSING ADMINISTRATION

B 123

CONTRACTOR'S, SUBCONTRACTOR'S, AND MORTGAGOR'S CERTIFICATIONS

To the Federal Housing Administration:

Date February 1, 1973

Project No. 012-44002-P

Whereas, in accordance with the provisions of the Federal Housing Administration Regulations, as amended, the Commissioner has determined that there is an identity of interest between the ~~mortgagor~~ and Trans Urban Construction Co., Inc. as subcontractor-material supplier*;

Now Therefore, the undersigned certifies that Trans Urban Construction Co., Inc. has been paid $ 1,038,040 in connection with the construction of the project, that no rebates, or kickbacks, have been or will be paid, and that the price paid was not in excess of the going rate in the locality for similar work or materials.

Attest:

F. W. Eversley & Co., Inc.
General Contractor

Elaine Stantz
Ass't Secretary

By F W Eversley Jr.
President

The undersigned certifies that it has received $ 1,038,040 in payment for work performed and/or materials supplied in connection with the construction of the project, that no kickback or rebates have been or will be paid, and that the amount received was not in excess of the going rate in the locality for similar work or materials.

Trans. Urban Construction Co., Inc.
Subcontractor

Martha Jean Jones
Witness

By Adolphus Young V.P.

The undersigned certifies that to the best of his knowledge and belief the foregoing certifications are true and correct.

Mortgagor

Witness

By

*Strike out inapplicable classification.

WARNING

U. S. Criminal Code, Section 1010, Title 18, U. S. C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, passes, utters, or publishes any statement, knowing the same to be false . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both."

Nobel Drew Ali Plaza I

Disallowances (to be repaid to project)

Management fees to Moorish Science Temple	$ 152,415.67
Legal fees	11,500.00
Consultant - David Rosen	6,500.00
Accountants fees	5,000.00
Miscellaneous fee	2,400.00
FNMA fee	10,552.00
Mortgage insurance premium	31,830.46
Insurance expense (brokerage fee)	25,422.63
	$ 245,620.76

Schedule of balance due Eversley

Balance on contract (holdback)	$ 461,807.00
Approved change orders	129,409.20
	$ 591,216.20
Less liquidated damages (to be eliminated)	159,306.39
Net due (with liquidated damages)	$ 431,909.81

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JULIO PEDRAZA, being duly sworn, deposes and says:

I am over the age of 18 years, am not a party to the within action, and reside in Brooklyn, New York.

On May 9, 1975, I served the within Notice of Motion to Amend Complaint and for Summary Judgment and Supporting Affidavit with Exhibits upon defendant Manufacturers Hanover Trust Co. by delivering a true copy thereof to the offices of Weisman, Celler, Spett, Modlin & Wertheimer, Attorneys for said defendant, at 425 Park Avenue, New York, New York.

Julio Pedraza

Julio Pedraza

Sworn to before me this
14th day of May, 1975.

Kenneth M Block

KENNETH M. BLOCK
Notary Public, State of New York
No. 31-4504950
Qualified in Kings County
Term Expires March 30, 1976

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JULIO PEDRAZA, being duly sworn, deposes and says:

I am over the age of 18 years, am not a party to the within action, and reside in Brooklyn, New York.

On May 8, 1975, I served the within Notice of Motion to Amend Complaint and for Summary Judgment and Supporting Affidavit with Exhibits upon defendant Carla A. Hills, Secretary of the United States Department of Housing and Urban Development, by delivering a true copy thereof to the office of Paul J. Curran, United States Attorney for the Southern District of New York, U.S.Courthouse, Foley Square, New York, New York.

Julio Pedraza

Julio Pedraza

Sworn to before me this
14th day of May, 1975.

Kenneth M Block

KEN[illegible]
Notary P[illegible]
No.
Qualified in
Term Expires Mar.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
----------x

F. W. EVERSLEY & CO., INC., and
F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.
----------x

75 Civ. 85
(H.F.W.)

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER
MAY 15 1975

STATEMENT OF F. W. EVERSLEY & CO., INC. PURSUANT TO GENERAL RULE 9 OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

The following are the material facts as to which F. W. Eversley & Co., Inc. contends there is no genuine issue to be tried:

1. Defendant Brownsville Housing Development Fund Corporation (hereinafter "Brownsville") is the owner of certain buildings and premises known as Nobel Drew Ali Plaza I, a low-income housing development located in Brooklyn, New York.

2. On or about November 10, 1970, Brownsville entered into a Building Loan Agreement with defendant Manufacturers Hanover Trust Co. (hereinafter "Bank") subject to the approval of defendant James T. Lynn, former Secretary of the United States Department of Housing and Urban Development (hereinafter the "Secretary") to provide mortgage funds for the construction of the aforesaid housing development (Exhibit E).

(9)

3. As set forth in the Building Loan Agreement, Bank received a commitment from the Secretary for the insurance of the Building Loan under the provisions of the National Housing Act.

4. As further provided in the Building Loan Agreement, Bank agreed to loan Brownsville the principal sum of $10,096,000, to be advanced in periodic stages during the course of construction, of which sum the amount of $7,697,226 was to be made available for the improvement of property.

5. The allocation of said $7,697,226 as the net sum available for the improvement of the real property was made pursuant to Section 22 of the Lien Law of the State of New York.

6. All monies loaned and to be loaned under the Building Loan Agreement, were required to be held by Brownsville, Bank, or the Secretary, as trust funds for the benefit of contractors performing the work, labor and services for the housing development.

7. On or about November 10, 1970, plaintiff as contractor, and Brownsville, as owner, entered into contracts for the general and off-site construction of Nobel Drew Ali Plaza I (Exhibit H).

8. Pursuant to the terms and conditions of the aforesaid construction contracts, Brownsville agreed to pay plaintiff the sum of $7,697,226 as increased or decreased by approved change orders.

9. At the time of the execution of the contract, Brownsville and the Secretary agreed to approve a change

order in the sum of $100,050 because of changes required by the New York City Building Department. In addition to these change orders, changes costing $29,359.20 were also required and approved by Brownsville and the Secretary.

10. Pursuant to the terms of the construction contract, plaintiff agreed that it would not file mechanic's or materialmen's liens or maintain any claim against the owner's real estate or improvement for or on account of any work done, labor performed, or materials furnished under the contract.

11. In accordance with the agreements entered into among Brownsville, Bank and the Secretary, the cost of the improvements was to be paid totally by the advances under the Building Loan Agreement and Brownsville was not required to make any financial investment in the development.

12. In connection with the construction of the West Building of the project, FHA form 2485, Permission to Occupy, was executed on August, 1972, and a Temporary Certificate of Occupancy was issued on August 24 (Exhibit J).

13. In connection with the completion of the East Building, on January 18, 1973, a Temporary Certificate of Occupancy was issued and on January 24, FHA Form 2485, Permission to Occupy, was executed (Exhibit K).

15. The present sum of money due plaintiff for the balance of its contract is $461,807 (Exhibit M) and approved change orders of $129,409.20.

16. On or about February 12, 1973, plaintiff filed its Certification of Actual Costs (Exhibit N).

17. The Secretary refuses to "close" the project and authorize payment to Eversley because of disallowances in the sum of $245,620.76 (Exhibit O), which Brownsville has been asked to return to the project.

Dated: New York, New York
May 9, 1975

DEMOV, MORRIS, LEVIN & SHEIN

By _____
A Member of the Firm
Attorneys for Plaintiffs
40 West 57th Street
New York, New York 10019
(212) 757-5050

TO: PAUL J. CURRAN
United States Attorney for
the Southern District of
New York
Att: Peter C. Salerno, Esq.
Attorney for Defendant The Secretary
of the United States Department
of Housing and Urban Development
United States Courthouse
Foley Square
New York, New York 10007

Weisman, Celler, Spett, Modlin &
Wertheimer
425 Park Avenue
New York, New York 10022

B 131

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

KAREN A. KENT, being duly sworn, deposes and says:

I am not a party to the action, am over the age of eighteen years, and reside at 21 Albert Street, Hicksville, New York.

On May 12 1975, I served the within Statement of F. W. Eversley & Co., Inc. Pursuant to Rule 9 of the United States District Court for the Southern District of New York

upon each party therein named by mailing the same to said party or to his attorney at the address designated by him for that purpose, by depositing a true copy thereof in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the state, as follows:

Paul J. Curran, United States
Attorney for the Southern District of
New York
United States Courthouse
Foley Square
New York, New York

Attention: Peter C. Salerno

Weisman, Celler, Spett, Modlin &
Wertheimer
425 Park Avenue
New York, New York 10022

Karen A. Kent

Karen A. Kent

Sworn to before me this
14th day of May, 1975

Kenneth M. Block

KENNETH M. BLOCK
Notary Public, State of New York
No. 24-5348750
Qualified in Kings County
Term Expires March 30, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

F. W. EVERSLEY & CO., INC. and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.
----------x

75 Civ. 85

(H.F.W.)

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER

MAY 15 1975

SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF MOTION TO INCREASE AD DAMNUM PORTION OF COMPLAINT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

THOMAS W. EVERSLEY, being duly sworn, deposes and says:

I am the vice president of F. W. Eversley & Co., Inc. and make this supplemental affidavit in support of plaintiff's motion to increase the ad damnum portion of its complaint from $572,104.00, to $591,216.20, plus interest from February 18, 1973.

This motion has been made necessary by information received by me from the FHA Director of Operations (New York Area Office) after the service and filing of our complaint. As noted in my main affidavit in support of plaintiff's

(10)

motion for summary judgment, I was recently given financial data compiled by FHA in connection with its refusal to "close" the Brownsville project. Included in that data, set forth as Exhibit O to our moving papers, was FHA approval of change orders in the amount of $129,409.20. While we had submitted this amount for approval, we had been under the impression that only $110,297.00 had been approved, and on the basis of that figure (set forth in paragraph 11 of our complaint), this action was instituted.

Now, with the recognition by FHA that we are entitled to an increased amount of approved change orders, we seek to increase the ad damnum portion of our complaint to reflect this amount, for a total claim of $591,216.20, plus interest from February 18, 1973, the date on which we became absolutely entitled to full payment.

Accordingly, it is respectfully requested that this court grant plaintiff leave to increase the ad damnum portion of our complaint and that summary judgment be granted in the amount now demanded.

Thomas W. Eversley

Sworn to before me this
12th day of May, 1975.

Kenneth M. Block

KENNETH M. BLOCK
Notary Public, State of New York
No. 24-4633750
Qualified in Kings County
Term Expires March 30, 1976

B 134

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

KAREN A. KENT, being duly sworn, deposes and says:

I am not a party to the action, am over the age of eighteen years, and reside at 21 Albert Street, Hicksville, New York.

On May 12 1975, I served the within Supplemental Affidavit in Support of motion to increase ad damnum portion of complaint

upon each party therein named by mailing the same to said party or to his attorney at the address designated by him for that purpose, by depositing a true copy thereof in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the state, as follows:

Paul J. Curran, United States
Attorney for the Southern District of
New York
United States Courthouse
Foley Square
New York, New York

Attention: Peter C. Salerno

Weisman, Celler, Spett, Modlin &
Wertheimer
425 Park Avenue
New York, New York 10022

Karen A. Kent

Karen A. Kent

Sworn to before me this
14th day of May, 1975

Kenneth M. Block

KENNETH M. BLOCK
Notary Public, State of New York
No. 24-5348750
Qualified in Kings County
Term Expires March 30, 1976

U.S. DISTRICT COURT
FILED
JUN 26 1975
S. D. OF N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

F. W. EVERSLEY & CO., INC. and F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- against -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

----------X

75 Civ. 85

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER
(H.F.W.)
JUN 27 1975

STATEMENT OF MANUFACTURERS HANOVER TRUST COMPANY PURSUANT TO GENERAL RULE 9

The following are the material facts as to which Manufacturers Hanover Trust Company contends there exist genuine issues to be tried:

1. Defendant, Manufacturers Hanover Trust Company (hereinafter "Manufacturers"), denies and puts in issue paragraph 6 of plaintiff's statement pursuant to Rule 9 insofar as it states that monies loaned and to be loaned under the Building Loan Agreement were required to be held by the defendant Bank

(12)

as trust funds for the benefit of contractors performing the work, labor and services for the housing development.

2. Defendant, Manufacturers, denies and puts in issue the statement in paragraph 11, since the advances were subject to the prior approval of HUD and were to be made only as long as Brownsville was not in default under the Building Loan Agreement, the note and mortgage.

3. Under the terms of the Commitment for Insurance of Advances, approval of advances, in accordance with the Building Loan Agreement, must be obtained from HUD prior to the date of each advance to be insured.

4. Under the terms of the Building Loan Agreement, the borrower is entitled only to such advances as may be approved by the Lender and the Commissioner.

5. Manufacturers has made every advance which has been approved by the Commissioner.

6. No advance may be made to Brownsville without prior approval of HUD; if not approved, an advance will not be insured.

7. Under the terms of the Building Loan Agreement, advances shall be made in accordance with the provisions of the agreement as long as the loan remains in balance and the borrower is not in default thereunder or under the note and mortgage executed by Brownsville.

8. Brownsville has been in default under the note and mortgage before final closing which has not taken place.

9. Under the provisions of the Building Loan Agreement and the note and mortgage, there is no money owing by Manufacturers to Brownsville.

10. Manufacturers does not hold any trust fund or any fund for Brownsville or the plaintiff.

11. The plaintiff had notice of the provisions of the Building Loan Agreement.

12. The plaintiff's construction contract provides that all payments are subject to the prior approval of Manufacturers and HUD and the fulfillment of the requirements of HUD set forth therein.

13. Brownsville is not entitled to any further advances and the plaintiff has no greater rights.

Dated: New York, N.Y.
June 25, 1975.

WEISMAN, CELLER, SPETT, MODLIN & WERTHEIMER

By: Samuel R. Rudey

Samuel R. Rudey, A Member of the Firm
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Hanover Trust Company
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TO: DEMOV, MORRIS, LEVIN & SHEIN
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PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Att: Peter C. Salerno, Esq.
Attorney for Defendant, The Secretary
of the United States Department of
Housing and Urban Development
United States Courthouse
Foley Square
New York, New York 10007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUN 26 1975
S.D. OF N.Y.

F. W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- against -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, JAMES T. LYNN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

Index No.
75 CIV. 85
(H.F.W.)

AFFIDAVIT IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER
JUN 27 1975

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

PHILIP J. POWER, being duly sworn, deposes and says:

I am an Assistant Vice President of Manufacturers Hanover Trust Company ("Manufacturers") in the Real Estate and Mortgage Department and submit this affidavit in opposition to the plaintiff's motion for summary judgment against Manufacturers. It is respectfully submitted that the facts and the documentary evidence demonstrate that there is no legal basis whatsoever for any claim against Manufacturers and that it is entitled to summary judgment dismissing the complaint.

THESE ARE THE FACTS:

On August 3, 1970, the Federal Housing Commissioner,

(13)

acting on behalf of the Secretary of Housing and Urban Development, issued to Manufacturers a Commitment for Insurance of Advances in connection with a housing project on property at Stone, Lott and Hegeman Avenues, Brooklyn, New York, wherein Brownsville Housing Development Fund Corporation (Brownsville) was named as mortgagor. The commitment provides that the Commissioner, acting on behalf of the Secretary of Housing and Urban Development, will endorse, under the provisions of Section 236 of the National Housing Act and the regulations thereunder, a mortgage note in the amount of $10,096,000.00 to be secured by a mortgage on the property; and the insurance endorsement will be subject to compliance with the requirements of the regulations and the terms and conditions set forth in the commitment.

Paragraph 5a of the commitment provides that approval of advances, in accordance with the Building Loan Agreement, must be obtained on a form prescribed by the Commissioner prior to the date of each advance to be insured. A copy of the Commitment for Insurance of Advances is annexed hereto, made part hereof and marked Exhibit 1.

Thereafter and in accordance with said commitment, Manufacturers entered into a Building Loan Agreement dated November 18, 1970 with Brownsville Housing Development Fund Corporation, a copy of which is annexed to plaintiff's motion marked Exhibit E. On the same date, Brownsville executed and delivered to Manufacturers its mortgage note and mortgage. (Exhibits G and F annexed to plaintiff's motion)

The Building Loan Agreement provides, in part, in paragraph (4)(a) that the Borrower (Brownsville) shall make monthly applications on FHA Form No. 2403 for advances of mortgage proceeds from the lender (Manufacturers), that each application shall be filed at least five (5) days before the date the advance is desired and "the Borrower shall be entitled thereon only to such amount as may be approved by the Lender and the Commissioner."

Manufacturers has made every advance which has been approved by the Commissioner; none can be made without such prior approval, since the amount of the advance, if not approved, will not be insured under the specific terms of the Commitment of Insurance of Advances.

Moreover, paragraph 4(e) of the Building Loan Agreement provides that Manufacturers shall, in accordance with the provisions of the agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default thereunder or under the note or mortgage executed by the Borrower and referred to in said agreement.

The Borrower has been in default under the note and mortgage. The note dated November 18, 1970 provides that principal and interest shall be payable by Brownsville as follows: Interest only payable monthly on the 1st day of December, 1970 and on the 1st day of each month thereafter; commencing on the 1st day of December, 1973, installments of interest and principal shall be paid in the sum of $74,013.18 each, such payments to

continue monthly thereafter on the 1st day of each succeeding month until the entire indebtedness has been paid, but in any event, the balance of principal, if any, remaining unpaid plus accrued interest shall be due and payable on November 1, 2013. The installments of interest and principal shall be applied first to interest at 8-1/2% per annum upon the principal sum unpaid and the balance shall be applied on account of principal. The note requires Brownsville to make the additional monthly payments set forth in the mortgage. Paragraph 9 of the mortgage provides, in pertinent part:

> "9. That in order more fully to protect the security of this Mortgage, together with, and in addition to, the monthly payments of principal and interest payable under the terms of the Note secured hereby, the Mortgagor agrees to deposit with the Mortgagee concurrently with payments of interest or of interest and principal, on the first day of each month after the date hereof until the said Note is fully paid, the following sums:
>
> (a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage insurance premium if this instrument and the Note secured hereby are insured, or a monthly service charge, if they are held by the Secretary of Housing and Urban Development, as follows:
>
> (i) If and so long as said Note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the Mortgagee one month prior to its due date the annual mortgage insurance premium in order to provide such Mortgagee with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations hereunder, or

(ii) . . .

(b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the Mortgagee) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by Mortgagee in trust to pay said ground rents, premiums, water rates, taxes and special assessments;

(c) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by Mortgagee to the following items in the order set forth:

(i) premium charges under the Contract of Insurance with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner or service charge;

(ii) ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;

(iii) interest on the Note secured hereby;

(iv) amortization of the principal of said Note;"

Brownsville has been in default in the payment of interest required to be made monthly, pursuant to the provisions of the note. Payments received from Brownsville have been applied to the earliest obligations due under the note and mortgage. As of June 1, 1975, the balance of unpaid interest amounted

to $529,747.37. Moreover, it has been in default in the payment of the additional amounts required to be made monthly, pursuant to the provisions of the note and mortgage. As of June 1, 1975, this amounted to $41,537.60 for the period from June 1, 1974 to June 1, 1975. The total amount due from Brownsville to Manufacturers as of June 1, 1975 is $606,704.15, as shown in the bill to Brownsville dated May 29, 1975, a copy of which is annexed, marked Exhibit 2.

Under the foregoing circumstances, the Commissioner will not insure any further advances to Brownsville and Manufacturers is under no obligation to make any further advances.

All of the defaults of Brownsville have occurred before final closing which has not taken place. Without final closing, Brownsville was not entitled to any further advance including the amount calculated as a retention sum under the terms of the Building Loan Agreement.

There is no trust fund. Advances were made in the amounts calculated in accordance with the Building Loan Agreement as first approved by the Commissioner.

The plaintiff was on notice of the provisions of the Building Loan Agreement. Article 9D. of the plaintiff's Construction Contract (Exhibit H) provides:

> "D. The Contractor understands that the work under this contract is to be financed by a building loan to be secured by a mortgage and insured by the Commissioner, and that the terms of said loan are set forth in a Building Loan Agreement between the Owner as Borrower and Manufacturers Hanover Trust Company as Lender. The Contractor further understands that said Building Loan Agreement provides

> that, in the event of the failure of the Owner to perform its obligations to the Lender thereunder, the Lender may, as attorney-in-fact for the Owner, undertake the completion of the project in accordance with this Contract. In the event the Lender elects not to undertake such completion, the Contractor's obligations under this contract shall terminate."

Article 3 of the Construction Contract provides that all payments are subject to the prior approval of the Lender and the Commissioner and the fulfillment of certain requirements of the Commissioner.

The terms of Manufacturers' agreement with Brownsville are embodied in the Building Loan Agreement, the mortgage note and the mortgage. The plaintiff, not a party to the agreement between Manufacturers and Brownsville, seeks to rewrite that agreement to impose upon Manufacturers a substantial obligation contrary to the express provisions of its written agreement.

The action against Manufacturers is wholly without merit and without basis in fact or in law.

It is respectfully submitted that Manufacturers is entitled to summary judgment.

Sworn to before me this
6th day of June, 1975.

STEVE M. COSTELLO
Notary Public, State of New York
No. 31-5831760
Qualified in New York County
Commission Expires March 30, 1976

Philip J. Power

FHA FORM NO. 2432
Rev. 9/68

B 146

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

sw

COMMITMENT FOR INSURANCE OF ADVANCES

(SECTIONS 207, 220, 221, 231, 232, 242 and 810; and TITLE XI)
AND SECTION 236

Project No. [illegible]

To: Manufacturers Hanover Trust Company
(Mortgagee)

350 Park Avenue
(Street)

New York, New York 10022
(City and State)

Brownsville Community Council, Inc.
Moorish Science Temple of America, Inc.
(Name of sponsor(s))

1837 Strauss Street
Brooklyn, New York 11212
(Address)

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
(Name of proposed Mortgagor)

The Federal Housing Commissioner, acting herein on behalf of the Secretary of Housing and Urban Development, will endorse for insurance under the provisions of Section 236 of the National Housing Act, and the Regulations thereunder now in effect, a mortgage note in the amount of $10,096,000.00, to be secured by a mortgage, on the property located at Stone, Lott, and Hegeman avenues, Brooklyn (Kings County) New York and consisting of approximately 192,471 square feet. The insurance endorsement will be subject to compliance with the requirements of the Regulations, and the terms and conditions set forth below. The mortgage amount, however, is subject to reduction prior to final insurance endorsement of the mortgage note as provided in the Regulations.

1. The mortgage note shall be payable in monthly installments in accordance with the payment provision checked and completed below:

(a) ☐ Combination Declining Annuity Plan

The loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due on the first day of the _____ month following the month in which the mortgage is dated. The mortgage shall provide that the first payment to principal shall be in the amount of $ _____. Thereafter, on the first day of each succeeding month until the _____ installment has been paid, an installment of principal shall be paid in an amount equal to _____ percent of the principal payment which became due on the first day of the next preceding month. The _____ payment and, until the mortgage is paid in full, each succeeding payment shall be in an amount equal to _____ percent of the last preceding payment. The maturity and final payment date shall be _____ years and _____ months following the due date of the first payment to principal (commencement of amortization).

(b) ☐ Accelerating Curtail Declining Annuity Plan

The loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due on the first day of the _____ month following the month in which the mortgage is dated. The mortgage shall provide that the first payment to principal shall be in the amount of $ _____. Thereafter, on the first day of each succeeding month until the entire indebtedness has been paid, an installment of principal shall be paid in an amount equal to _____ percent of the principal payment which became due on the first day of the preceding month. The maturity and final payment date shall be _____ years and _____ months following the due date of the first payment to principal (commencement of amortization).

(c) ☒ Level Annuity Monthly Payment Plan

The loan shall bear interest at the rate of 8½ percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due on the first day of the 37th month following the month in which the mortgage is dated. The loan shall be payable on a level annuity basis by 420 monthly payments of principal and interest in the amount of $ 74,013.18. The maturity and final payment date shall be 35 years and 11 months following the due date of the first payment to principal (commencement of amortization).

(d) ☐ Level Annuity Monthly Payment Plan (Sec. 221(d)(3) Below Market Interest Rate Mortgage)

The loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal up to and including the date of final endorsement of the secured note. Thereafter, the loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal.

EXHIBIT 1

12-A

The first payment to principal (commencement of amortization) shall be due on the first day of the month following the month in which the mortgage is dated. The loan shall be payable on a level annuity basis by monthly payments of principal and interest in the amount of $. The maturity and final payment date shall be years and months following the due date of the first payment to principal (commencement of amortization).

2. A project shall be constructed on the mortgaged property in accordance with Drawings and Specifications filed with the Commissioner and designated as NOBLE DAVIS ALL PLAZA I, FHA Project No. 012-44002-NP-3, dated January 30, 1970. The Drawings and Specifications, which include "General Conditions of the Contract for Construction" (AIA Document A201) and "Supplementary Conditions of the Contract for Construction" (FHA Form No. 2554), shall be identified in a manner acceptable to the Commissioner by the following parties or their authorized agents: Mortgagor, Design Architect, Architect administering the Construction Contract, Contractor and the Contractor's Surety.

3. At least 15 days prior to the anticipated date for initial insurance endorsement of the mortgage note, two draft copies of each of the following documents and exhibits shall be submitted to the Commissioner. After review, the place and date of the initial closing will be designated, at which time the following documents and exhibits in final form shall be delivered to the Commissioner for approval:

(a) The mortgage and the note evidencing the debt secured.

(b) The Building Loan Agreement (FHA Form No. 2441) between the Mortgagee and the Mortgagor governing advances of the mortgage proceeds.

(c) The Construction Contract (FHA Form No. 2442 or 2442A) between the Mortgagor and the General Contractor whereby the project is to be built.

(d) Contractor's Certification of Labor Standards and Prevailing Wage Requirements

(e) Agreement and Certification executed by the Mortgagee and Mortgagor.

(f) Owner-Architect Agreement (appropriate FHA Form).

(g) Title evidence in conformity with the Regulations which shall show that title to the property on the date of initial endorsement of the mortgage for insurance is vested in the Mortgagor free of all encumbrances other than the mortgage, and free of all reservations of title (either junior or prior to said mortgage), except such as are specifically determined to be acceptable by the Commissioner. If such title evidence is in the form of a title insurance policy, it shall by its terms inure to the benefit of the Mortgagee and the Secretary of Housing and Urban Development, as interest may appear. Such title evidence must be accompanied by a survey of the property, together with the Surveyor's Certificate showing that there are no easements or encroachments upon the subject property except those acceptable to the Commissioner, which survey will be extended from time to time during construction to show that the improvements on the site have been erected solely upon the land covered by the mortgage and within the building restriction lines, if any, on said land and do not encroach upon or overhang any land not covered by the mortgage nor upon any easement or right-of-way. Evidence will be required to show that the premises are not zoned or restricted so as to prevent the construction of the improvements, and that building and other permits have been issued by legally constituted authorities having jurisdiction.

(h) Assurance of the completion of the project. A 50% PERFORMANCE BOND AND A 50% PAYMENT BOND OR ACCEPTABLE EQUIVALENT IS REQUIRED.

(i) Assurance that adequate sewer, water, gas, and electric facilities will be fully installed prior to completion of the project and that necessary public streets, sidewalks, and curbing outside the project site, if not yet constructed, will be fully completed within a reasonable time after completion of the project.

(j) The Mortgagee's Certificate itemizing the charges made by you in connection with the mortgage transaction and evidencing the collection by you or your nominee from the Mortgagor of the following sums to be applied to the following items:

(1) Deposit to meet cost of equipping and renting the project subsequent to completion of the entire project or units thereof, and to be applied to taxes, mortgage insurance premiums, property insurance premiums and assessments required by the terms of the mortgage accruing subsequent to initial endorsement of the mortgage for insurance, and not included in the proceeds of the mortgage ... $ (WPO) $201,920. (NOTE: For Section 232 Nursing Home Projects this deposit is required only for accruals of taxes, mortgage insurance premiums, property insurance premiums and assessments.)

(2) Funds, if any, required over and above mortgage proceeds for completion of the project ... $ -0-. This sum represents the difference between the Commissioner's estimate of the total cash required for carrying charges, financing, and for construction of the project, including builder's fees (or builder's and sponsor's profit and risk allowance, if any), architect's fees, and the maximum amount of the mortgage to be insured. These funds may be reduced by so much of the profit and risk allowance and fees, up to a maximum of $, as the closing documents show are not to be paid in cash.

(3) Escrow deposit, if any, to cover off-site utilities and streets... $ 81,325.00.

(4) The Mortgagor shall establish to the Commissioner's satisfaction that, in addition to the proceeds of the insured mortgage, the Mortgagor has funds in the amount of $ _____, or has made financial arrangements acceptable to the Commissioner in order to meet the expenses of the project from the date of initial occupancy until _____ months after the date of final endorsement as the Commissioner estimates is necessary to establish a profitable operation. The funds shall be deposited with the Mortgagee or other depository acceptable to the Commissioner on or before the date of initial endorsement, and such funds shall be held in a special account under an agreement approved by the Commissioner.

(k) The Escrow Agreement providing for the deposit, if any, required by Item (j)(3) of this paragraph and covering off-site utilities and streets.

(l) The Mortgagor's Certificate certifying to the priority of the mortgage and to other matters set forth therein.

(m) The instrument under which the Mortgagor entity is created, unless the Mortgagor is an individual.

4. The Mortgagor must possess the powers necessary for operating the project and meeting all the requirements of the Secretary of Housing and Urban Development for insurance of the mortgage. At the initial insurance endorsement of the mortgage note, there shall be filed with the Commissioner copies of all instruments or agreements necessary under the laws of the applicable jurisdiction to authorize the execution of the mortgage and the other closing documents, and a Regulatory Agreement or other instrument to permit the Commissioner's regulation of the Mortgagor as to rents, charges, and methods of operation. Such instrument shall provide, among other things, for the establishment of a Reserve Fund for Replacements under control of the Mortgagee by payment of $ 38,342.00 per annum, to be accumulated monthly commencing on the date of the first payment to principal as established in the insured mortgage, unless a later date is agreed to by the Commissioner.

5. (a) Approval of advances in accordance with the Building Loan Agreement must be obtained on a form prescribed by the Commissioner prior to the date of each advance to be insured. A Contractor's Prevailing Wage Certificate will be filed with the request for approval of each advance which includes a payment for construction costs.

(b) During the course of construction, the Commissioner and his representatives shall at all times have access to the property and the right to inspect the progress of construction, and an inspection fee in the amount of $ 2,400 shall be paid upon the initial insurance endorsement of the mortgage note. The inspection of construction by a representative of the Commissioner shall be only for the benefit and protection of the Secretary of Housing and Urban Development.

(c) Upon completion of the project in accordance with the Drawings and Specifications the mortgage note will be finally endorsed for insurance to the extent of the advances of mortgage proceeds approved by the Commissioner, subject to reduction as provided in the Regulations.

6. Any change in the Drawings and Specifications or in the conditions upon which this commitment is based, which may occur after the date hereof, shall be explained in writing, or in a supplementary application if required by the Commissioner, and must be approved by the Commissioner prior to initial endorsement. Any such change occurring subsequent to initial endorsement must be brought to the attention of the Commissioner immediately upon occurrence, and, except for such changes in the Drawings and Specifications which may be authorized by the Architect, must be approved by the Commissioner prior to the date on which the Commissioner is requested to approve any further advance for insurance. Changes in the Drawings and Specifications which result in any net construction cost increase, or will change the design concept, or will result in a net cumulative construction cost decrease of more then 2% of the contract amount may be effected only with the prior written approval of the Lender and the Commissioner. The Commissioner's approval of any change described above may be subject to such conditions and qualifications as the Commissioner in his discretion may prescribe.

7. If under the laws of the jurisdiction in which the project is located, the personal property of the Mortgagor, which is used in the operation of the project, is not covered by and subject to the real estate mortgage, the Mortgagee shall require and receive from the Mortgagor, prior to the final insurance endorsement of the mortgage note, a Security Agreement and a Financing Statement or such other security instrument as may be necessary to effect a first lien on such personal property in favor of the Mortgagee.

8. Any change in the sponsorship upon which this commitment is predicated must be requested in writing by the Mortgagee on behalf of any proposed substitute sponsor, and such request must be approved in writing by the Commissioner. Any sponsor or principal (including the principals of any parent entity of such sponsor or principal), who is now or who may later become involved in this project by way of financial interest, employment or otherwise, and who has not filed a certificate with the Commissioner fully disclosing his previous participation in FHA mortgage insurance programs, shall file such certificate on the form prescribed by the Commissioner and must be approved by the Commissioner.

9. All certificates, documents and agreements called for by this commitment shall be on forms approved or prescribed by the Commissioner and shall be completed, executed and filed in the number of copies and in such manner as he shall prescribe.

10. This commitment shall terminate 30 days from the date hereof unless renewed or extended by the Commissioner. Prior to any renewal or extension of this commitment, the Commissioner may, at his option, reexamine the commitment to determine whether it shall be extended in the same amount, or shall be amended to include a lesser amount.

11. A request for the reopening of this commitment within 90 days of its termination must be accompanied by the reopening fee prescribed by the Regulations.

12. The Design Architect and the Architect administering the construction contract shall each be covered by a policy of professional liability insurance in an amount consistent with insurance industry practice. At initial closing, there shall be provided for each Architect the writing agent's certificate in substantially the following form

To: Mortgagee and Secretary of Housing and Urban Development

I certify that _____ is insured in the
(Name of Architect)

amount of $ _____ under _____
(Name of Insurer)

Policy No. _____ of Architect and/or Engineers Professional Liability Insurance.

Your attention is directed to the Regulations covering the assignment or the transfer of the insured mortgage, in whole or in part, and the transfer of your rights, privileges, and obligations under the contract of mortgage insurance.

Special conditions set forth below or attached hereto and identified as additional numbered paragraphs are made a part hereof.

13. The Architect shall certify that the final drawings and specifications conform to the schematic drawings, brief specifications, commitment conditions (including the construction budget), applicable codes and ordinances and they comply with the objectives of FHA's "Minimum Property Standards".

14. Evidence to be submitted prior to initial endorsement that tax abatement and/or exemption has been granted by the City of New York for the term of the mortgage in accordance with Article XI of the Private Housing Law of the State of New York. The taxes, as a result of such abatement and/or exemption shall not exceed 10% of the gross shelter rent.

15. The FHA land price of $273,925 includes an estimate of $81,325 for off-site construction requirements which is to be escrowed at the time of initial endorsement.

16. Evidence to be submitted prior to Initial Endorsement that the City of New York will provide the necessary funds over and above mortgage proceeds by a reduction in land price or other means acceptable to FHA for off-site and on-site sewer utility work not shown on the closing plans and specifications but required during the construction period by an Agency of the City of New York.

SEE ATTACHED RIDER FOR ADDITIONAL COMMITMENT CONDITIONS

Dated August 3, 1970

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BY: FEDERAL HOUSING COMMISSIONER

By _____
Authorized Agent

GPO 870-236

Brooklyn, New York

B 150

ADDITIONAL CONDITIONS OF APPROVAL

17. The sponsor is to provide master meter for tenant gas and electric [illegible] surcharge is permitted from tenants [illegible] The amount of the surcharge is subject to FHA approval.

18. FNMA or GNMA requires a two week processing period for the [illegible] transfer of temporary loans. Therefore, it is suggested that [illegible] upon receipt of this commitment, make [illegible] which ever is the case.

19. The Commissioner agrees to make annual interest reduction payments [illegible] exceed the sum of $632,051.00, and the rent supplement payments [illegible] $69,934.00; these payments will be made on a monthly basis in accordance with the FHA regulations applicable to this program.

20. The mortgagor must certify prior to initial closing that all obligations under the Regulatory Agreement, including obligations to obtain from each applicant for admission as a tenant, Form 3131 (and Form 2501 for Rent Supplement tenants) will be met, to assign living units to families consistent with individual family needs, and to verify that maximum income limits have not been exceeded.

21. This Commitment is subject to the requirements of Executive Order 11246 relating to Equal Opportunity in Employment and regulations and procedures issued thereunder.

22. This Commitment is subject to the requirements of the President's Executive Order relating to Equal Opportunity in Housing issued on November 20, 1962 and regulations and procedures issued thereunder.

23. Thirty (30) days prior to initial endorsement, a copy of the Proposed Management Contract together with a resume of the background and experience of the Management Agent shall be submitted for evaluation and approval by FHA.

24. Provision to be included that an Elevator Maintenance Contract will be maintained throughout the life of the FHA Mortgage or in the alternative a fund for replacement to be immediately established in an amount to be determined by the FHA.

ADDITIONAL CERTIFICATE CONDITIONS (Cont'd)

25. It is a condition of this Commitment that the General Contractor, [illegible] Principal who is not involved or who may [illegible] project by way of [illegible] under the FHA Form 2013 procedures and [illegible] the Commissioner fully disclosing his [illegible] program, shall file such a certificate on the [illegible] Commissioner and must be approved prior to the [illegible] initial endorsement of the mortgage for [illegible]

26. Submission of Forms 3434 and 3435: At least [illegible] endorsement, the sponsor and mortgagor shall certify to [illegible] FHA Form 3434 as to their relationship with [illegible] furnishing the land and services and such persons, parties [illegible] land and services shall certify to the Commissioner on [illegible] their relationship with the sponsor and mortgagor. Subsequent [illegible] certification, if there is a change in the certified relationships [illegible] sponsor, mortgagor and the other parties must furnish the Commissioner additional certifications with respect to such changes. All relationships are subject to approval of the Commissioner and the Commissioner reserves the right to refuse endorsement of the note for insurance and to cancel this commitment is such relationships do not meet with his approval.

MANUFACTURERS HANOVER TRUST COMPANY
REAL ESTATE AND MORTGAGE DEPARTMENT
350 PARK AVENUE, NEW YORK, N.Y. 10022

DATE May 29,1975

FHA PL-1051 STONE,LOTT & HEGEMAN AV
BROOKLYN, N.Y. PROJ. 012-11022-MP-R

BROWNSVILLE HOUSING DEVELOPMENT
FUND CORPORATION
ATTN.MR. JOSEPH JEFFRIES-EL, PRES.
1837 STRAUSS STREET
BROOKLYN, NEW YORK 11212

Principal balance $9,593,294.08

interest - bal 10/1/74 to 5/1/75			$508,326.64
Due 6/1/75	67,952.50		
Less interest due FHA 6/1/75	46,531.77		21,420.75
		Total interest	529,747.37
Principal - Bal 5/1/75 to 6/1/75 incl.			35,419.16
Replacement Reserve = fr 6/1/74 to 6/1/75 incl.			41,537.60
		Total due 6/1/75	$606,704.15

EXHIBIT 2

MULTI-1279 PLEASE RETURN COPY OF BILL WITH YOUR REMITTANCE IN RETURN ENVELOPE ENCLOSED FOR YOUR CONVENIENCE.

PCS:iw

Decided in part by Opinion of 2/4/76, also in part by Order of 9/14/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F. W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- v -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

NOTICE OF MOTION

75 Civ. 85 (HFW)

U.S. DISTRICT COURT FILED AUG - 4 1975 S. D. OF N. Y.
RECEIVED IN CHAMBERS OF JUDGE HENRY F. WERKER
AUG 5 1975

S I R S:

PLEASE TAKE NOTICE that upon the annexed statement pursuant to rule 9(g) of the General Rules of this Court, the exhibits annexed thereto, all the pleadings in this action, and the accompanying memorandum of law, the undersigned will move this Court, before the Honorable Henry F. Werker, at the Courthouse, Foley Square, New York, New York, Room 1105, on August 12, 1975, at 4:00 P.M. or as soon thereafter as counsel can be heard, for summary judgment dismissing the complaint as to defendant Carla A. Hills, pursuant to Rule 56 of the Federal Rules of Civil Procedure; for leave to amend her answer, pursuant to Fed. R. Civ. P. 15(a), to insert the defense that plaintiff's lien law cause of action is time-barred; and for such other relief as is just.

Dated: New York, New York
July 31, 1975

Yours, etc.

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendant,
Carla A. Hills

By: Peter C. Salerno
PETER C. SALERNO
Assistant United States Attorney

15

PCS:iw

United States Court House Annex
One St. Andrew's Plaza
New York, New York 10007
212 791-1979

TO: DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

WEISMAN, CELLER, SPETT, MODLIN, WERTHEIMER, ESQS.
Attorneys for Defendant, Manufacturers
Hanover Trust Co.
425 Park Avenue
New York, New York 10022

PCS:iw

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F. W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,	: STATEMENT PURSUANT TO RULE 9 (G)
Plaintiffs,	: 75 Civ. 85(HFW)
- v -	:
BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,	:
Defendants.	:

Defendant, Carla A. Hills, Secretary of the Department of Housing and Urban Development ("the Secretary") submits this statement, pursuant to Rule 9(g) of the General Rules of this Court, in opposition to the motion for summary judgment made by plaintiff, and in support of her motion for summary judgment.

Response to Plaintiff's 9(g) Statement

1. The Secretary does not controvert paragraphs 1, 3, 4, 7 and 10 of plaintiff's 9(g) statement.

2. The Secretary does not controvert paragraph 2 of plaintiff's 9(g) statement, except notes that the bank's entering into a loan agreement with the owner was not subject to the Secretary's approval.

3. Paragraph 5 of plaintiff's 9(g) statement states a legal conclusion that is respectfully referred to the Court for determination.

4. Paragraph 6 of plaintiff's 9(g) statement states a legal conclusion,but the Secretary expresàly controverts the statement that moneys to be loaned pursuant to the building loan agreement, in the hands of the bank or the Secretary, were trust funds.

PCS:emw
74-3984

5. The Secretary controverts paragraph 8 of plaintiff's 9(g) statement. Under the construction contract, Brownsville agreed to pay plaintiff the actual costs of construction plus a fee of $284,521.00, up to a maximum, not a lump sum. The maximum may be increased or decreased by approved changes.

6. The Secretary controverts paragraph 9 of plaintiff's 9(g) statement. Exhibit 1 annexed hereto is a true copy of all the dollar-value change orders approved by the Secretary, without supporting material.

7. The Secretary controverts paragraph 11 of plaintiff's 9(g) statement, though that paragraph states a legal conclusion, and one that the Secretary contends is not material. In any event, no agreement requires the Secretary to advance any sums or to pay anything to plaintiff.

8. The Secretary does not controvert paragraphs 12 and 13 of plaintiff's 9(g) statement, except that the FHA Forms 2485, Permission to Occupy, were not executed by the Secretary on the dates stated by plaintiff. Annexed hereto as Exhibit 5 are copies of the applicable Forms 2485 as executed.

9. The Secretary controverts and puts in issue paragraph 15 of plaintiff's 9(g) statement. No money is due plaintiff from the Secretary. The amount due plaintiff under the construction contract is still uncertain, although this uncertainty is immaterial with respect to the Secretary's motion for summary judgment. Furthermore, all the dollar-value change orders approved by the Secretary are annexed hereto as Exhibit 1.

PCS:emw
74-3984

10. Paragraph 16 of plaintiff's 9(g) statement does not say where or with whom plaintiff filed its certification of actual costs. This certification was received by the Secretary, from the sponsor (as provided by applicable contract provisions), some months after February 12, 1973.

11. The Secretary controverts and puts in issue paragraph 17 of plaintiff's 9(g) statement. The Secretary does not "close" a project. This project is in default in part because of misapplications of mortgage funds by the sponsor, and until that default is cured no further advances of mortgage funds can be made by the bank or approved for insurance by the Secretary.

Secretary's 9(g) Statement in Support of her Motion

12. Exhibit 1 annexed hereto is a true copy of each dollar-value change order, FHA Form 2437, approved by the Secretary, without supporting material.

13. Exhibit 2 annexed hereto is a true copy of FHA Form 2432, the Secretary's Commitment for Insurance of Advances applicable to the Brownsville project.

14. Exhibit 3 annexed hereto is a true copy of a payment bond guaranteeing, up to the sum of $7,709,532.00, Eversley's payments to laborers and materialmen for work done in connection with the Brownsville project.

15. Exhibit 4 annexed hereto is a true copy of the building loan agreement involved in Travelers Indemnity Co. v. First National State Bank of New Jersey, 328 F.Supp. 208 (D.N.J. 1971).

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendant Hills

By: Peter C. Salerno
PETER C. SALERNO
Assistant United States Attorney

PCS:emw
74-3984

United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1979

TO:

KENNETH M. BLOCK, ESQ.
Demov, Morris, Levin & Shein
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

SAMUEL R. RUDEY, ESQ.
Weisman, Celler, Spett, Modlin & Wertheimer
Attorneys for Defendant,
Manufacturer's Hanover Trust Co.
425 Park Avenue
New York, New York 10022

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PCS:emw
74-3984

EXHIBITS

F. W. Eversley & Co., Inc. v. Brownsville

1. FHA Form 2437 - Change Orders
2. FHA Form 2432 - Commitment for Insurance of Advances
3. FHA Form 2452-A - Payment Bond
4. Former FHA Form 2441 - Building loan agreement in Travelers Indemnity Co. v. First National State Bank of New Jersey
5. ✓ FHA Forms 2485 - Permission to occupy.

B 160

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2447
Rev. 11/70

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R0274

INSERT TERMS AND CONDITIONS OF ACCEPTANCE - See reverse side

Project Name and Location	Request No. For FHA Use	Project No.
MONTE DREW ALT PLAZA I NEW LOTS & STONE AVENUE BKLYN, N.Y.	59	FHA # 012-44002 LPR

Name of Contractor	Name of Mortgagor
F.W. EVERSLEY & CO., IN C.	BROWNSVILLE HOUSING DEVELOPMENT FUND

Name of Mortgagee	Date
MANUFACTURER'S HANOVER TRUST CO.	November 17, 1972

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

	DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
	Install chain guards on all apartment entrance doors	$ 3,465.00	$	V	V
	385 entrance doors x $9.00 per labor & materials =				
	$3,465.00				
	(Required by N.Y.C. Building Department				
	in order to obtain Certificates of Occupancy)		1/23 7-23-73		

DELAY DUE TO THE ABOVE CHANGES	MONTHS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 3,465.00 By	Date	$ + 1540. By	Date	BY	Date	BY	Date

See Statement on reverse side re Conditions, Statement of Mortgagee, Etc.

By: F.W. Eversley Jr. - President (Mortgagor) By: Joseph Jaffin Jr. (Mortgagee)

NOTE: Contractor required to have Owner's Architect Agreement 2710A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the Contract documents and it is my professional recommendation that the changes be approved.

Vernal R. Savage (Project Architect)

The total sum of $ ____ is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No. ____

By: Waters (Authorized official of bank or escrow)

FEDERAL HOUSING ADMINISTRATION FINDINGS

W. A. PEERS
ASSISTANT SECRETARY

TO: Manufacturer's Hanover Trust Co (Mortgagee)

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ + 109,329.20

(b) Net effect on cost to date - All changes .... $ +112,797.20 (Decrease / Increase) + 1.47%

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ ____ $ 1,540

B. Net effect on construction cost from previous change (FHA Est.) ..... $ ____ $ 108,757

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ ____ $ 110,297 + 1.43%

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided

A. [X] That a total sum of $ 110,297.00 is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ ____ be deducted from the amount entered for the line entitled "Sum of Cost of Certain Items Plus Inventories of Materials" on subsequent contractors requisitions, Form No. 2448. This amount may be modified by later changes.

C. [ ] Consent of surety to the above changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes ____ are not acceptable. For the reasons stated on the reverse side.

MORTGAGE CREDIT [illegible] Date 7-6-73

FHA Approval Conditioned Upon Terms Stated Above

FEDERAL HOUSING ADMINISTRATION

(Authorized Official) (Date) 7-2-73 By: [illegible] (Authorized Official)

DEPUTY ASSISTANT COMMISSIONER FOR INSURED HOUSING OPERATIONS, D.E.P.H.

O.D. - RETURN TO MORTGAGE CREDIT

B 161

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) reason, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachments showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719 B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving nonprofit mortgagors:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND PREVIOUS CONSTRUCTION CHANGES, IF ANY (CHECK APPROPRIATE PROVISION):

[ ] The undersigned Contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ (Mortgagor)

By _____ (Contractor)

B 162

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2437
Rev. 11/69

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R0264

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
KOLLEL DEEN ALI PLAZA I NEW LOTS AND STONE AVENUE BKLYN,NY	#48	012-44002-MP

Name of Contractor	Name of Mortgagor
F.W. EVERSLEY & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee	Date
MANUFACTURER'S HANOVER TRUST CO.	

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

	DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
	At the request of the sponsor Change 62 fixtures from	$	$		
	Type "DD" to a 2'x4' recessed fixture for Commercial area	3,325.40		✓	✓

DELAY DUE TO THE ABOVE CHANGES MONTHS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 3,325.40 By / Date	$ By / Date	By / Date	By / Date

See Statement on reverse side re Corporations, Nonprofit Mortgagors, Etc.

By: (Authorized Official for Mortgagor)

By: (Authorized official for mortgagee)

NOTE: Certification required where Owner-Architect Agreement 2719A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagee, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the Contract Documents and it is my professional recommendation that the changes be approved.

(Project Architect)

The total sum of $ -0- is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No.

By: (Authorized official, for mortgagee)

FEDERAL HOUSING ADMINISTRATION FINDINGS

W. A. PETERS
ASSISTANT SECRETARY

TO: Manufacturer's Hanover Trust Co. Mortgagee

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes + $106,003.80

Net effect on cost to date - All changes .... + $109,329.20 (Decrease / Increase) + 1.4 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ _____ $ 2,754

B. Net effect on construction cost from previous change (FHA Est.) ..... $ _____ $ 106,003

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ _____ $ 108,757 +1.4 %

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. [X] That a total sum of $ 108,757 - is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted from the amount entered for the Item entitled "Sum of Cost Breakdown Items Plus Inventories of Materials" on subsequent contractors requisitions, Form No. 2119. This amount may be modified by later changes.

C. [ ] Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes _____ are not acceptable: For the reasons stated on the reverse side.

OD - RETURN TO MORTGAGE CREDIT

MORTGAGE CREDIT By Date 9-22-72

FHA Analysis and Findings Reviewed and Approved:

(Date)

FEDERAL HOUSING ADMINISTRATION

By: (Authorized Official)

(Authority Assistant Director)

FOR HOUSING SERVICES
OPERATIONS DIVISION

B 163

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) reason, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachments showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving nonprofit mortgagors.

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND PREVIOUS CONSTRUCTION CHANGES, IF ANY. (CHECK APPROPRIATE PROVISION):

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ By _____

B 164

FHA FORM NO. 2307
REV. 11/59

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R1358

NOTICE: TERMS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location: NOBLE DRIVE ALL PLAZA I BEN LOTS AND STONE AVENUE BKLYN, N.Y.

Page Number For FHA Use: 6.7

Project No.: 012-11002 - MP

Name of Contractor: F.W. EVERSLEY & CO., INC.

Name of Mortgagor: BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee: MANUFACTURERS HANOVER TRUST CO.

Date:

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS: V Accept, O Unacceptable (See reverse side)

DESCRIPTION OF CHANGES	Mort. Ln. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
	$	$		
At. the request of the owner, Change Sitework				
Amphitheatre from wood to concrete. This will provide	5,953.80	5953 -	V	V
lower maintenance & longer life (see attached plan)				
DELAY DUE TO THE ABOVE CHANGES 1 MONTH	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 5,953.00	+ 5953	By [illegible] Date [illegible] By [illegible] Date [illegible]

See Statement Required by Federal Grant Contracts, Financial Statements, Etc.

By: F.W. Eversley & Co. Inc.

By: [signature] (Authorized Agent of Mortgagor)

NOTE: Certificates required when Construction Agreement 2013A or C in effect. ARCHITECT OF PROJECT: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the contract documents and it is my professional recommendation that the changes be approved.

Conrad Rosenberg (Project Architect)

The total sum of $ 0 is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No.

By: [signature] (Authorized official for mortgagee)

FEDERAL HOUSING ADMINISTRATION FINDINGS

W. A. PETERS
ASSISTANT SECRETARY

TO: Manufacturer's Hanover Trust Co. (Mortgagee)

(a) Effect on cost of previously accepted changes $ +100,050

1. MORTGAGOR'S ESTIMATE

(b) Net effect on cost to date - All changes .... $ +106,003.80 (Decrease / Increase) +1.38 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ _____ / $ 5953

B. Net effect on construction cost from previous change (FHA Est.) ..... $ _____ / $ 100,050

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ _____ / $ 106,003 +1.38 %

3. ☒ Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. ☒ That a total sum of $ 106,003.80 is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. ☐ That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted from the amount entered on the line entitled "Sum of Cost Breakdown Items Plus Inventories of Materials" on subsequent contractors requisitions, Form No. 2414. This amount may be modified by later changes.

C. ☐ Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. ☐ There is compliance with the conditions stated on the reverse side.

4. ☐ Changes _____ are not acceptable: For the reasons stated on the reverse side.

MORTGAGE CREDIT By [signature] Date [illegible]

FHA Analysis and Findings Reviewed and Approved.

[signature] (Authorized Agent) [illegible] By: _____ (Authorized Agent)

DEPUTY ASSISTANT DIRECTOR FOR TECHNICAL SERVICES OPERATIONS DIVISION

FEDERAL HOUSING ADMINISTRATION

GO - RETURN TO MORTGAGE CREDIT

B 165

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGE

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) reason, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachments showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving nonprofit mortgagors:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND PREVIOUS CONSTRUCTION CHANGES, IF ANY: (CHECK APPROPRIATE PROVISION)

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ (Authorized Officer) (Contractor)

By _____ (Authorized Official for Mortgagor)

FHA 814-576

B 166

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form No. 2437
Rev. 7-73

REQUEST FOR CONSTRUCTION CHANGE - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R1504

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
NOBLE DREW ALL PLAZA I NEW LOTS AND STONE AVENUE BKLYN, N.Y.	16-6	012-44002 - MP

Name of Contractor	Name of Mortgagor
F.W. EVERSLEY & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee: MANUFACTURER'S HANOVER TRUST CO.

Date:

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

	DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
	As per Addendum (2e.) to closing specs. & [illegible] on	$	$		
	drawing #12 a new 12 inch concrete wall 240 ft. long was				
	added next to the crawl space area in lieu of the				
	original 6 inch masonry wall.	$750.00	750.	V	V
			[illegible]		
			[illegible]		
	DELAY DUE TO THE ABOVE CHANGES [illegible] MONTHS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 750.00 By Date	$ 750. By Date	By Date

See Supplementary Conditions of General Conditions of Contract

By: [signature] (Contractor or Sponsor)

By: [signature] (Mortgagee)

NOTE: Certification required when Owner-Architect Agreement 2718A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the contract documents and it is my professional recommendation that the changes be approved.

Desval Strang (Project Architect)

The total sum of $ [illegible] is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No.

By: [signature] (Authorized official for mortgagee)

FEDERAL HOUSING ADMINISTRATION FINDING:

W. A. PETERS
ASSISTANT SECRETARY

To: Manufacturers Hanover Trust Co. Mortgagee

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ +99,300

(b) Net effect on cost to date - All changes .... $ +100,050 (Decrease / Increase) +1.3 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ _____ / $ 250

B. Net effect on construction cost from previous change (FHA Est.) ..... $ _____ / $ 99,300

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ _____ / $ 100,050 +1.3 %

3. ☒ Changes Above are acceptable and the drawings and specifications are correspondingly amended. Provided:

A. ☒ That a total sum of $ 100,050.- is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. ☐ That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted from the amount entered on the line entitled "Sum of Cost Breakdown Items Plus Inventories of Material" on subsequent contractor's requisitions, Form No. 2base. This amount may be modified by later changes.

C. ☐ Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. ☐ There is compliance with the conditions stated on the reverse side.

4. ☐ Changes _____ are not acceptable. For the reasons stated on the reverse side.

MORTGAGE CREDIT

Date 9-6-74

FHA Approved Change Request Not Approved

FEDERAL HOUSING ADMINISTRATION

By: [signature] (Mortgagee)

RETURN TO
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
[illegible]

O.D. - RETURN TO
[illegible] CREDIT

B 167

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (change a, b, c, d, e and f). Describe each change, including (1) location, (2) general purpose, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) reference to any attachment showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving nonprofit mortgagors:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND PREVIOUS CONSTRUCTION CHANGES, IF ANY: (CHECK APPROPRIATE PROVISION)

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ (Authorized Officer of Contractor) | By _____ (Authorized Officer of the Mortgagor)

HUD 8008-570

B 168

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2447
REV. 11/71

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R244

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
HOPKE DRIVE ALL PLAZA I NEW LOTS AND STONE AVENUE BKLYN, NY.	105	012-44002 - MP

Name of Contractor	Name of Mortgagor
E.M. EVERSLEY & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee
MANUFACTURER'S HANOVER TRUST CO.

Date

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(As referenced below)

DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
As per Addendum (2d,) to closing specs. & plans. Details for the five elevator machine rooms containing nine elevators; reinforcement rods are shown in lieu of wire mesh.	$3,100.00	3,100.	V	V

DELAY DUE TO THE ABOVE CHANGES ___ MONTHS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 3,100.00	$ 3,100.
	By	Date	By	Date

The State of New York ss: County of Kings, being duly sworn, says that he is Assistant Secretary of

By: [signature] (Corporate officer)

By: [signature] (Architect)

NOTE: Compliance is required under Architect's Agreement 2710A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the Contract Documents and it is my professional recommendation that the changes be approved.

Usual 518 Ave.
(Project Architect)

The total sum of $ -0- is on deposit with ___ as to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No. ___

By: [signature]
(Authorized official for contractor)

FEDERAL HOUSING ADMINISTRATION FINDINGS

TO: Manufacturers Hanover Trust Co.
Mortgagee

I. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ +96,200

(b) Net effect on cost to date - All changes .... $ +99,300 (Decrease) (Increase) +1.3 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ ___ $ 3,100

B. Net effect on construction cost from previous change (FHA Est.) ..... $ ___ $ 96,200

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ ___ $ 99,300 +1.3 %

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. [X] That a total sum of $ 99,300 00 is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to effect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ ___ be deducted from the amount entered on the line entitled "Sales of Cost Breakdown Items Plus Inventories of Materials" on subsequent contractor's requisitions, Form No. 2452. This amount may be modified by later changes.

C. [ ] Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes ___ are not acceptable: For the reasons stated on the reverse side.

MORTGAGE CREDIT [illegible]

DISAPPROVED as to the application of FHA mortgage insurance.

FEDERAL HOUSING ADMINISTRATION

By: [signature] (Authorized official)

DEPUTY ASSISTANT DIRECTOR
FOR TECHNICAL SERVICES
OPERATIONS DIVISION

RETURN TO [illegible]

B 169

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) location, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) reference to any attachment showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

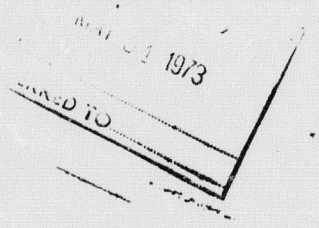
The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimate includes job overhead and Builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.



The following is accepted for Projects in connection with Mortgages or Sales Type Contracts on Projects involving a credit sponsor:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COST RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND ENCLOSED CONSTRUCTION CHANGES, IF ANY: (CHECK APPROPRIATE PROVISION)

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $_____ set forth in Article 3 thereof to $_____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $_____ set forth in Article 3 thereof to $_____ all other provisions of said construction contract to remain unchanged.

By _____ (Contractor) (Seal)

By _____ (Mortgagor) (Seal)

B 170

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2447
Rev. 11/70

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R0264

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
NOBLE DREW ALI PLAZA I NEW LOTS AND STONE AVENUE BKLYN, N.Y.	1C-4	012-44002 - MP

Name of Contractor	Name of Mortgagor
F.W. EVERCLEY & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee	Date
MANUFACTURERS HANOVER TRUST CO.	

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

	DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
	As per Addeddum (2c.) to closing plans & Specis non-slip	$	$		
	bull nosing required for all exterior entrance stairs				
	& entrances, each with 9 threads, each tread 10 ft. long				
	450 ft. x 2.89 per ft. =	$1,200.00	1,200.00	V	V
			+1% 9-25-73		
	DELAY DUE TO THE ABOVE CHANGES ____ DAYS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 1,200.00	By	By
		By Date	By Date	Date 9-25-73	Date 9/30/73

See Statement of Qualifications, Page III, Paragraph 1, Etc.

By: [signature] (Authorized Officer of Mortgagee)

By: [signature] (Mortgagor)

NOTE: Certification required where mortgage is subject to Section 207/8 or C in effect. ARCHITECT'S CERTIFICATE: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagee, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the contract documents and are my professional recommendation that the changes be approved.

[signature] (Project Architect)

The total sum of $ -0- is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No.

By: [signature] (Authorized officer for mortgagee)

FEDERAL HOUSING ADMINISTRATION FINDINGS

W A PETERS
ASSISTANT SECRETARY

TO: Manufacturers Hanover Trust Co. (Mortgagee)

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ +95,000

(b) Net effect on cost to date - All changes .... $ +96,200 (Decrease) (Increase) +1.25%

2. A. Net effect on construction cost resulting from acceptable changes, if any, Indicated herein (FHA Est.) ..... $ ____ $ 1,200

B. Net effect on construction cost from previous change (FHA Est.) ..... $ ____ $ 95,000

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ ____ $ 96,200 +1.25%

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided

A. [X] That a total sum of $ 96,200 is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ ____ be deducted from the amount entered on the line entitled "Sum of Cost Breakdown Items Plus Inventories of Materials" on subsequent contractor's requisitions, Form No. 2452. This amount may be modified by later changes.

C. [ ] Consent of surety to these changes to obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes ____ are not acceptable. For the reasons stated on the reverse side.

MORTGAGE CREDIT
Date 9-6-73

FHA Approved: (Not Valid Unless Signed and Approved)

[signature] (Authorized Signature) 10/25/73 (Date)

FEDERAL HOUSING ADMINISTRATION

By: [signature] (Authorized Signature)

DEPUTY ASSISTANT DIRECTOR
FOR TECHNICAL SERVICES
OPERATIONS DIVISION

O,D - RETURN TO MORTGAGE CREDIT

B 171

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change including (1) location, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachments showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C [illegible]ed, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving nonprofit mortgagors:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND PREVIOUS CONSTRUCTION CHANGES, IF ANY: (CHECK APPROPRIATE PROVISION) [ ] _____

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ | By _____

FHA Form 2436

B 172

FHA FORM NO. 2437
Rev. 11/71

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R1334

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
NOBLE DREW ALI PLAZA I NEW LOTS AND STONE AVE. BKLYN, N.Y.	183	#012-44002-NP

Name of Contractor	Name of Mortgagor
F.W. EVERSLEY & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee
MANUFACTURER'S HANOVER TRUST CO.

Date

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

	DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
	As per Addendum (2b.) to closing specs. & drawings	$	$		
	four additional basement entrances. Three on West Bldg.				
	one on East Bldg. $3,000 per entrance x 4 entrances =	$ 12,000.00	12,000.	V	V
	(See attached breakdown sheet)				

DELAY DUE TO THE ABOVE CHANGES ___ MONTHS	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$ 12,000.00	$ 12,000.	By	By
		By	By	Date	Date

See Statement on reverse side re: Contractor's Certification, Etc.

By: [signature] (Authorized officer) (Director)

By: [signature] (Mortgagor) (Owner)

NOTE: Certification under Exhibit Other Architect Agreement 2719A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the contract documents and it is my professional recommendation that the changes be approved.

Neuval P. Duvall (Project Architect)

The total sum of $ -0- is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No.

By: [signature] (Authorized officer) (Contractor)

FEDERAL HOUSING ADMINISTRATION FINDINGS

TO: Manufacturers Hanover Trust Co.

[signature]
ASSISTANT SECRETARY

Mortgagee

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ +83,000 -

(b) Net effect on cost to date - All changes .... $ +95,000 - (Decrease) (Increase) +1.2 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ _____ $ 12,000

B. Net effect on construction cost from previous change (FHA Est.) ..... $ _____ $ 83,000

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ _____ $ 95,000 +1.2 %

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. [X] That a total sum of $ 95,000 - is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted from the amount entered on the line entitled "Cost Basis of Cost Plus or Fixed Fee Items Plus Inventories of Materials" on subsequent contractors requisitions, Form No. 2415. This amount may be modified by later changes.

C. [ ] Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes _____ are not acceptable. For the reasons stated on the reverse side.

MORTGAGE CREDIT [signature] Date 9-6-72

FHA Architectural Engineering Review Unit Approved

[signature] (Date)

FEDERAL HOUSING ADMINISTRATION

By: [signature]

DEPUTY ASSISTANT DIRECTOR
FOR HOME ASSISTANCE
OPERATIONS DIVISION

C/D - RETURN TO MORTGAGE CREDIT

B 173

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) reason, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachment showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving nonprofit mortgagors:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND ITEMIZED CONSTRUCTION CHANGES, IF ANY: (CHECK APPROPRIATE PROVISION)

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract hereto remain unchanged.

By _____ (Owner-Mortgagor) (Officer if Corporation)

By _____ (Contractor)

FHA-2436a

B 174

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA FORM NO. 2452
Rev. 11-69

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R0264

SPECIAL TERMS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
NOBLE DREW ALT PLAZA I NEW LOTS AND STONE AVENUE BKLYN, N.Y.	1A 2	012-44002-MP

Name of Contractor	Name of Mortgagor
F.W. EVERSLEY & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee: MANUFACTURER'S HANOVER TRUST CO. Date:

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
As per Addendum (2A) to Closing Specs. & Plans. Hand-rails must be added to both sides of all concrete basement ramps. 5 ramps, each - 50 ft. long 2 rails need per ramp = 500 ft. of railing.	$	$		
500 ft. pipe railing x $12.00 per ft. =	$6,000.00	6,000	V	V
The price of this Change was agreed upon at the closing				
November 18, 1970				

DELAY DUE TO THE ABOVE CHANGES: NONE

TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES: $ 6,000.00 (By / Date)

Mortgagor and Contractor (Signature of Authorized Officials)

By: [signature] (Authorized official of Contractor)

By: [signature] (Authorized official of Mortgagor)

NOTE: Construction required when Owner's Interest Assessment 2719A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no financial interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or any subcontractor or supplier. The changes as set forth in this request are in conformity with the intent of the Contract Documents and it is my professional recommendation that the changes be approved.

Manual N Isaacs
(Project Architect)

The total sum of $ — (0) — is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of request No.

By: [signature]
(Authorized official of Mortgagee)

FEDERAL HOUSING ADMINISTRATION FINDINGS

W. A. PETERS
ASSISTANT SECRETARY

TO: Manufacturers Hanover Trust Co.
Mortgagee

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ +77,000 —

(b) Net effect on cost to date - All changes .... $ +83,000 — (Decrease / Increase) + 1.08 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ — $ 6,000

B. Net effect on construction cost from previous change (FHA Est.) ..... $ — $ 77,000

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ — $ 83,000 +1.08 %

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. [X] That a total sum of $ 83,000 & is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be reduced without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted from the amount entered in the line entitled "Sum of Cost Breakdown Items Plus Inventories of Materials" on subsequent contractors requisitions, Form No. 2119S. The amount may be modified by later changes.

C. [ ] Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes _____ are not acceptable. For the reasons stated on the reverse side.

MORTGAGE CREDIT — Date 9-6-71

FHA Approved and Executed, Reviewed and Approved.

FEDERAL HOUSING ADMINISTRATION

[signature] (Date) By: [signature]

DEPUTY ASSISTANT DIRECTOR
FOR TECHNICAL SERVICES

C/O — RETURN TO MORTGAGE CREDIT

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REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) location, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachments showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

The following is required on Requests in connection with Management or Sales Type Cooperatives and Projects involving non-profit mortgagors:

WITH RESPECT TO ANY NET INCREASE OR DECREASE IN COSTS RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREWITH AND PREVIOUS CONSTRUCTION CHANGES, IF ANY (CHECK APPROPRIATE PROVISION):

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor, hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 3 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ | By _____

GPO 16-5076

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

FHA Form No. 2447
Rev. 11/68

REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

Form Approved
Budget Bureau No. 63-R1321

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE - See reverse side.

Project Name and Location	Request No. For FHA Use	Project No.
NOBLE DREW ALT PLAZA I NEW LOTS AND STONE AVENUE BKLYN, N.Y.	1	012-44002-LP

Name of Contractor	Name of Mortgagor
F.M. WIENCKE & CO., INC.	BROWNSVILLE HOUSING DEVELOPMENT FUND CO., INC.

Name of Mortgagee: MANUFACTURERS HANOVER TRUST CO.

Date:

TO: FEDERAL HOUSING ADMINISTRATION: You are requested to consider the following proposed changes in the Project, these changes are satisfactory to the parties hereto, as indicated by the signatures below.

FHA ANALYSIS
V Accept, O Unacceptable
(See reverse side)

DESCRIPTION OF CHANGES	Mort. Est. Effect on Cost Plus or Minus	Effect on Cost Plus or Minus	ARCH.	VAL.
As per addendum (1.) to Closing Specs. & Drawings. The East Bldg. foundation wall was dropped 1'-9" adding 1.75 ft. of foundation wall. The West Bldg. foundation wall was dropped 2'-6" adding 2'-6" adding 2½ ft. of concrete foundation wall, total - 7000 linear feet. These changes necessitates 700 cubic yards more of concrete and 4,100 cubic yards more of dirt excavation.= $77,000.00	$77,000.00	77,000	✓	✓
The cost of this Change Order was agreed upon by FHA at the November 18, 1971 Closing.				

DELAY DUE TO THE ABOVE CHANGES	TOTAL NET EFFECT ON CONSTRUCTION COST OF ACCEPTABLE CHANGES	$77,000.00	$	By	By
MONTHS		By	Date	Date	Date

See Statement of Mortgagee Re: Cost Certified, Payment of Interest, Etc.

By: [signature] Vice President
(Mortgagor or Authorized Officer) (Title)

By: [signature]
(Architect) (Title)

NOTE: Certificates required when Owner's Certificate Agreement 2719A or C in effect. ARCHITECT'S CERTIFICATION: I certify that I have no interest in the subject project beyond the fee for my professional services, and that I have no identity of interest with the mortgagor, contractor, or subcontractor or supplier. The changes set forth in this request are in conformity with the intent of the contract documents, and it is my professional recommendation that the changes be approved.

Daniel R. Davis
(Project Architect)

The total sum of $ - 0 - is on deposit with us to cover the net increase resulting from acceptable changes pursuant to the conditions of Request No.

By: [signature]
(Authorized official for mortgagee)

W. A. FEERT
ASSISTANT SECRETARY

FEDERAL HOUSING ADMINISTRATION FINDINGS

TO: Manufacturers Hanover Trust Co.
Mortgagee

1. MORTGAGOR'S ESTIMATE

(a) Effect on cost of previously accepted changes $ -0-

(b) Net effect on cost to date - All changes .... $ +77,000 (Decrease) (Increase) +1 %

2. A. Net effect on construction cost resulting from acceptable changes, if any, indicated herein (FHA Est.) ..... $ ____ $ 77,000

B. Net effect on construction cost from previous change (FHA Est.) ..... $ -0- $ -0-

C. Net effect on construction cost of changes to date (FHA Est.) ..... $ ____ $ 77,000 +1 %

3. [X] Changes Above are acceptable and the drawings and specifications are correspondingly amended, Provided:

A. [X] That a total sum of $ 77,000.00 is on deposit with the mortgagee to cover net increase in cost resulting from acceptable changes indicated herein and previous construction changes, if any. This supersedes any previous requirements. The aforesaid sum shall not be released without written consent of FHA prior to final completion and acceptance of the project construction.

No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

B. [ ] That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable changes indicated herein and previous construction changes, if any, the amount of $ _____ be deducted from the principal indebtedness entitled "Statement of Cost Eligible Items Plus Inventories of Materials" on subsequent contractor requisitions, Form No. 2452. The amount may be modified by later changes.

C. [ ] Consent of surety to these changes is obtained in writing and signed copy furnished this office prior to effecting the change.

D. [ ] There is compliance with the conditions stated on the reverse side.

4. [ ] Changes _____ are not acceptable. For the reasons stated on the reverse side.

MORTGAGE CREDIT
Date 9-6-72

FHA Architectural and Engineering Review and Approval:

[signature]
(Signature)

[signature]
(Date)

FEDERAL HOUSING ADMINISTRATION

By [signature]
(Authorized Official)

DEPUTY [illegible] DIRECTOR
FOR [illegible]
OPERATIONS [illegible]

[illegible]

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REQUEST FOR CONSTRUCTION CHANGES - PROJECT MORTGAGES

INSTRUCTIONS AND CONDITIONS OF ACCEPTANCE

An original and six copies to be submitted to the FHA through the mortgagee. Designate each proposed change by a letter (using a, b, c, d, e and f). Describe each change, including (1) reason, (2) general scope, (3) fully detailed description of work to be omitted and work to be added, for each trade affected, (4) references to any attachments showing the proposed revisions, and (5) the amount by which the construction cost will be increased or decreased as the net result of each proposed change.

When the Owner-Architect agreement 2719B and C are used, attach the written approval or waiver of the design architect to all changes relating to design.

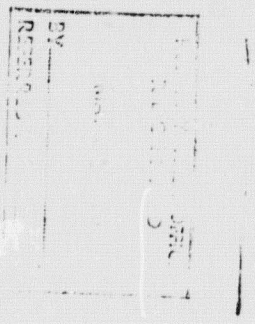
The cost of each change is to be estimated on the basis of current cost of work of items omitted and the current cost of work or items substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the FHA estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No Architect's or Engineer's fee is included.

Form 2437 is not used for off-site changes. Submit in writing in same manner as Form 2437.

To be acceptable to FHA a proposed change must be actually due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any change it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request For Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to the status existing prior to acceptance of the change or to a status acceptable to FHA.

Conditions of Acceptance and/or Reasons for Unacceptability:

1. When the FHA estimated cost of all accepted changes results in a net decrease in the total construction cost the insurable mortgage will be similarly decreased, but if the net effect is an increase the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.



The following is required for Projects in connection with Mutual or Sales Type Cooperatives and Projects involving nonprofit mortgagors

WITH EFFECT TO ALL SUCH PARTS OF DRAWINGS AND SPECIFICATIONS COVERING AND RESULTING FROM ACCEPTABLE CHANGES INDICATED HEREIN WITH AND BY THIS REQUEST FOR CONSTRUCTION CHANGES, IT IS AGREED (CHECK APPROPRIATE PROVISION):

[ ] The undersigned contractor hereby agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

[ ] The undersigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by increasing the contract price of $ _____ set forth in Article 4 thereof to $ _____ all other provisions of said Construction Contract to remain unchanged.

[ ] The undersigned Mortgagor and the undersigned Contractor hereby agree to the above described construction changes and hereby agree that the construction contract executed by them under date of _____ is amended by decreasing the contract price of $ _____ set forth in Article 4 thereof to $ _____ all other provisions of said construction contract to remain unchanged.

By _____ By _____

(Mortgagor) (Contractor)

FHA FORM NO. 2432
Rev. 9/68

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

COMMITMENT FOR INSURANCE OF ADVANCES

(SECTIONS 207, 220, 221, 231, 232, 242 and 810, and TITLE XI)
AND SECTION 236

Project No. [illegible]

To: [illegible] Mutual Life Insurance Company
(Mortgagee)

[illegible]
(Street)

New York, New York 10022
(City and State)

Brownsville Community Council, Inc.
Jewish Reform Temple of America, Inc.
(Name of sponsor(s))

1937 Stevens Street
Brooklyn, New York 11212
(Address)

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
(Name of proposed mortgagor)

The Federal Housing Commissioner, acting herein on behalf of the Secretary of Housing and Urban Development, will endorse for insurance under the provisions of Section [illegible] of the National Housing Act, and the Regulations thereunder now in effect, a mortgage note in the amount of $ [illegible], to be secured by a mortgage on the property located at [illegible] and consisting of approximately [illegible] square feet. The insurance endorsement will be subject to compliance with the requirements of the Regulations, and the terms and conditions set forth below. The mortgage amount, however, is subject to reduction prior to final insurance endorsement of the mortgage note as provided in the Regulations.

1. The mortgage note shall be payable in monthly installments in accordance with the payment provision checked and completed below:

(a) [ ] Combination Declining Annuity Plan

The loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due on the first day of the _____ month following the month in which the mortgage is dated. The mortgage shall provide that the first payment to principal shall be in the amount of $ _____. Thereafter, on the first day of each succeeding month until the _____ installment has been paid, an installment of principal shall be paid in an amount equal to _____ percent of the principal payment which became due on the first day of the next preceding month. The _____ payment and, until the mortgage is paid in full, each succeeding payment shall be in an amount equal to _____ percent of the last preceding payment. The maturity and final payment date shall be _____ years and _____ months following the due date of the first payment to principal (commencement of amortization).

(b) [ ] Accelerating Curtail Declining Annuity Plan

The loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due on the first day of the _____ month following the month in which the mortgage is dated. The mortgage shall provide that the first payment to principal shall be in the amount of $ _____. Thereafter, on the first day of each succeeding month until the entire indebtedness has been paid, an installment of principal shall be paid in an amount equal to _____ percent of the principal payment which became due on the first day of the preceding month. The maturity and final payment date shall be _____ years and _____ months following the due date of the first payment to principal (commencement of amortization).

(c) [ ] Level Annuity Monthly Payment Plan

The loan shall bear interest at the rate of [illegible] percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due on the first day of the [illegible] month following the month in which the mortgage is dated. The loan shall be payable on a level annuity basis by [illegible] monthly payments of principal and interest in the amount of $ [illegible]. The maturity and final payment date shall be [illegible] years and [illegible] months following the due date of the first payment to principal (commencement of amortization).

(d) [ ] Level Annuity Monthly Payment Plan (Sec. 221(d)(3) Below Market Interest Rate Mortgage)

The loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal up to and including the date of final endorsement of the secured note. Thereafter, the loan shall bear interest at the rate of _____ percent per annum payable on the first day of each month on the outstanding balance of principal.

The first payment to principal (commencement of amortization) shall be due on the first day of the _____ month following the month in which the mortgage is dated. The loan shall be payable on a level annuity basis by _____ monthly payments of principal and interest in the amount of $ _____. The maturity and final payment date shall be _____ years and _____ months following the due date of the first payment to principal (commencement of amortization).

2. A project shall be constructed on the mortgaged property in accordance with Drawings and Specifications filed with the Commissioner and designated as _____ _____, FHA Project No. _____, dated _____. The Drawings and Specifications, which include "General Conditions of the Contract for Construction" (AIA Document A201) and "Supplementary Conditions of the Contract for Construction" (FHA Form No. 2554), shall be identified in a manner acceptable to the Commissioner by the following parties or their authorized agents: Mortgagor, Design Architect, Architect administering the Construction Contract, Contractor and the Contractor's Surety.

3. At least 15 days prior to the anticipated date for initial insurance endorsement of the mortgage note, two draft copies of each of the following documents and exhibits shall be submitted to the Commissioner. After review, the place and date of the initial closing will be designated, at which time the following documents and exhibits in final form shall be delivered to the Commissioner for approval:

(a) The mortgage and the note evidencing the debt secured.

(b) The Building Loan Agreement (FHA Form No. 2441) between the Mortgagee and the Mortgagor governing advances of the mortgage proceeds.

(c) The Construction Contract (FHA Form No. 2442 or 2442A) between the Mortgagor and the General Contractor whereby the project is to be built.

(d) Contractor's Certification of Labor Standards and Prevailing Wage Requirements.

(e) Agreement and Certification executed by the Mortgagee and Mortgagor.

(f) Owner-Architect Agreement (appropriate FHA Form).

(g) Title evidence in conformity with the Regulations which shall show that title to the property on the date of initial endorsement of the mortgage for insurance is vested in the Mortgagor free of all encumbrances other than the mortgage, and free of all reservations of title (either junior or prior to said mortgage), except such as are specifically determined to be acceptable by the Commissioner. If such title evidence is in the form of a title insurance policy, it shall by its terms inure to the benefit of the Mortgagee and the Secretary of Housing and Urban Development, as interest may appear. Such title evidence must be accompanied by a survey of the property, together with the Surveyor's Certificate showing that there are no easements or encroachments upon the subject property except those acceptable to the Commissioner, which survey will be extended from time to time during construction to show that the improvements on the site have been erected solely upon the land covered by the mortgage and within the building restriction lines, if any, on said land and do not encroach upon or overhang any land not covered by the mortgage nor upon any easement or right-of-way. Evidence will be required to show that the premises are not zoned or restricted so as to prevent the construction of the improvements, and that building and other permits have been issued by legally constituted authorities having jurisdiction.

(h) Assurance of the completion of the project. A 50% PERFORMANCE BOND AND A 50% PAYMENT BOND OR ACCEPTABLE EQUIVALENT IS REQUIRED.

(i) Assurance that adequate sewer, water, gas, and electric facilities will be fully installed prior to completion of the project and that necessary public streets, sidewalks, and curbing outside the project site, if not yet constructed, will be fully completed within a reasonable time after completion of the project.

(j) The Mortgagee's Certificate itemizing the charges made by you in connection with the mortgage transaction and evidencing the collection by you or your nominee from the Mortgagor of the following sums to be applied to the following items:

(1) Deposit to meet cost of equipping and renting the project subsequent to completion of the entire project or units thereof, and to be applied to taxes, mortgage insurance premiums, property insurance premiums and assessments required by the terms of the mortgage accruing subsequent to initial endorsement of the mortgage for insurance, and not included in the proceeds of the mortgage ... $ _____. (NOTE: For Section 232 Nursing Home Projects this deposit is required only for accruals of taxes, mortgage insurance premiums, property insurance premiums and assessments.)

(2) Funds, if any, required over and above mortgage proceeds for completion of the project ... $ _____. This sum represents the difference between the Commissioner's estimate of the total cash required for carrying charges, financing, and for construction of the project, including builder's fees (or builder's and sponsor's profit and risk allowance, if any), architect's fees, and the maximum amount of the mortgage to be insured. These funds may be reduced by so much of the profit and risk allowance and fees, up to a maximum of $ _____, as the closing documents show are not to be paid in cash.

(3) Escrow deposit, if any, to cover off-site utilities and streets... $ 81,325.00 _____.

(4) The Mortgagor shall establish to the Commissioner's satisfaction that, in addition to the proceeds of the insured mortgage, the Mortgagor has funds in the amount of $ _____, or has made financial arrangements acceptable to the Commissioner in order to meet the expenses of the project from the date of initial occupancy until _____ months after the date of final endorsement as the Commissioner estimates is necessary to establish a profitable operation. The funds shall be deposited with the Mortgagee or other depository acceptable to the Commissioner on or before the date of initial endorsement, and such funds shall be held in a special account under an agreement approved by the Commissioner.

(k) The Escrow Agreement providing for the deposit, if any, required by Item (j)(3) of this paragraph and covering off-site utilities and streets.

(l) The Mortgagor's Certificate certifying to the priority of the mortgage and to other matters set forth therein.

(m) The instrument under which the Mortgagor entity is created, unless the Mortgagor is an individual.

4. The Mortgagor must possess the powers necessary for operating the project and meeting all the requirements of the Secretary of Housing and Urban Development for insurance of the mortgage. At the initial insurance endorsement of the mortgage note, there shall be filed with the Commissioner copies of all instruments or agreements necessary under the laws of the applicable jurisdiction to authorize the execution of the mortgage and the other closing documents, and a Regulatory Agreement or other instrument to permit the Commissioner's regulation of the Mortgagor as to rents, charges, and methods of operation. Such instrument shall provide, among other things, for the establishment of a Reserve Fund for Replacements under control of the Mortgagee by payment of $ 8,343.00 per annum, to be accumulated monthly commencing on the date of the first payment to principal as established in the insured mortgage, unless a later date is agreed to by the Commissioner.

5. (a) Approval of advances in accordance with the Building Loan Agreement must be obtained on a form prescribed by the Commissioner prior to the date of each advance to be insured. A Contractor's Prevailing Wage Certificate will be filed with the request for approval of each advance which includes a payment for construction costs.

(b) During the course of construction, the Commissioner and his representatives shall at all times have access to the property and the right to inspect the progress of construction, and an inspection fee in the amount of $ 50,300.00 shall be paid upon the initial insurance endorsement of the mortgage note. The inspection of construction by a representative of the Commissioner shall be only for the benefit and protection of the Secretary of Housing and Urban Development.

(c) Upon completion of the project in accordance with the Drawings and Specifications the mortgage note will be finally endorsed for insurance to the extent of the advances of mortgage proceeds approved by the Commissioner, subject to reduction as provided in the Regulations.

6. Any change in the Drawings and Specifications or in the conditions upon which this commitment is based, which may occur after the date hereof, shall be explained in writing, or in a supplementary application if required by the Commissioner, and must be approved by the Commissioner prior to initial endorsement. Any such change occurring subsequent to initial endorsement must be brought to the attention of the Commissioner immediately upon occurrence, and, except for such changes in the Drawings and Specifications which may be authorized by the Architect, must be approved by the Commissioner prior to the date on which the Commissioner is requested to approve any further advance for insurance. Changes in the Drawings and Specifications which result in any net construction cost increase, or will change the design concept, or will result in a net cumulative construction cost decrease of more then 2% of the contract amount may be effected only with the prior written approval of the Lender and the Commissioner. The Commissioner's approval of any change described above may be subject to such conditions and qualifications as the Commissioner in his discretion may prescribe.

7. If under the laws of the jurisdiction in which the project is located, the personal property of the Mortgagor, which is used in the operation of the project, is not covered by and subject to the real estate mortgage, the Mortgagee shall require and receive from the Mortgagor, prior to the final insurance endorsement of the mortgage note, a Security Agreement and a Financing Statement or such other security instrument as may be necessary to effect a first lien on such personal property in favor of the Mortgagee.

8. Any change in the sponsorship upon which this commitment is predicated must be requested in writing by the Mortgagee on behalf of any proposed substitute sponsor, and such request must be approved in writing by the Commissioner. Any sponsor or principal (including the principals of any parent entity of such sponsor or principal), who is now or who may later become involved in this project by way of financial interest, employment or otherwise, and who has not filed a certificate with the Commissioner fully disclosing his previous participation in FHA mortgage insurance programs, shall file such certificate on the form prescribed by the Commissioner and must be approved by the Commissioner.

9. All certificates, documents and agreements called for by this commitment shall be on forms approved or prescribed by the Commissioner and shall be completed, executed and filed in the number of copies and in such manner as he shall prescribe.

10. This commitment shall terminate 60 days from the date hereof unless renewed or extended by the Commissioner. Prior to any renewal or extension of this commitment, the Commissioner may, at his option, reexamine the commitment to determine whether it shall be extended in the same amount, or shall be amended to reduce to a lesser amount

11. A request for the reopening of this commitment within 90 days of its termination must be accompanied by the reopening fee prescribed by the Regulations.

12. The Design Architect and the Architect administering the construction contract shall each be covered by a policy of professional liability insurance in an amount consistent with insurance industry practice. At initial closing, there shall be provided for each Architect the writing agent's certificate in substantially the following form:

To: Mortgagee and Secretary of Housing and Urban Development

I certify that _____ (*Name of Architect*) _____ is insured in the

amount of $ _____ under _____ (*Name of Insurer*)

Policy No. _____ of Architect and/or Engineers Professional Liability Insurance.

Your attention is directed to the Regulations covering the assignment or the transfer of the insured mortgage, in whole or in part, and the transfer of your rights, privileges, and obligations under the contract of mortgage insurance.

Special conditions set forth below or attached hereto and identified as additional numbered paragraphs are made a part hereof.

13. The architect shall certify that the final drawings and specifications conform to the schematic drawings, brief specifications, commitment conditions (including the construction budget), applicable codes and ordinances and they comply with the objectives of HUD's "Minimum Property Standards".

14. Evidence to be submitted prior to initial endorsement that tax abatement and/or exemption has been granted by the City of New York for the term of the mortgage in accordance with Article 7 of the Private Housing Law of the State of New York. The fee, in lieu of such abatement and/or exemption shall not exceed 15% of the gross shelter rent.

15. The FHA land price of $273,125 includes an estimate of $81,325 for off-site construction requirements which is to be escrowed at the time of initial endorsement.

16. Evidence to be submitted prior to Initial Endorsement that the City of New York will provide the necessary funds over and above mortgage proceeds by a reduction in land price or other means acceptable to FHA for off-site and on-site sewer utility work not shown on the closing plans and specifications but required during the construction period by an agency of the City of New York.

SEE ATTACHED RIDER FOR ADDITIONAL COMMITMENT CONDITIONS

Dated August 3, 1979

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BY: FEDERAL HOUSING COMMISSIONER

By _____ (*Authorized Agent*)

[illegible]

ADDITIONAL COMMITMENT CONDITIONS

17. The sponsor is to provide master meter for tenant gas and electricity. A surcharge is permitted from tenants wishing to install air-conditioning units. The amount of the surcharge is subject to FHA approval.

18. FNMA or GNMA require a two week processing period for the take out for the transfer of temporary loans. Therefore, it is suggested that the Mortgagee, upon receipt of this commitment, make immediate application to FNMA or GNMA, whichever is the case.

19. The Commissioner agrees to make annual interest reduction payments not to exceed the sum of $632,951.00, and the rent supplement payments not to exceed $69,934.00; these payments will be made on a monthly basis in accordance with the FHA regulations applicable to this program.

20. The mortgagor must certify prior to initial closing that all obligations under Regulatory Agreement, including obligations to obtain from each applicant for admission as a tenant, Form 3131 (and Form 2501 for Rent Supplement tenants) will be met, to assign living units to families consistent with individual family needs, and to verify that maximum income limits have not been exceeded.

21. This Commitment is subject to the requirements of Executive Order 11246 relating to Equal Opportunity in Employment and regulations and procedures issued thereunder.

22. This Commitment is subject to the requirements of the President's Executive Order relating to Equal Opportunity in Housing issued on November 20, 1962 and regulations and procedures issued thereunder.

23. Thirty (30) days prior to initial endorsement, a copy of the Proposed Management Contract together with a resume of the background and experience of the Management Agent shall be submitted for evaluation and approval by FHA.

24. Provision to be included that an Elevator Maintenance Contract will be maintained throughout the life of the FHA Mortgage or in its alternative a fund for replacement to be immediately established in an amount to be determined by the FHA.

[illegible]
[illegible] Draft Mt. Plaza I
Bayonne, New York

ADDITIONAL COMMITMENT CONDITIONS (Cont'd)

25. It is a condition of this Commitment that the General Contractor and any Principal who is now involved or who may later become involved in this project by way of financial interest, employment, or otherwise, as defined under the FHA Form 2530 procedures and who has not filed a certificate with the Commissioner fully disclosing his previous participation in FHA multifamily programs, shall file such a certificate on the form prescribed by the Commissioner and must be approved under these 2530 procedures prior to the initial endorsement of the mortgage for insurance.

26. Submission of Forms 3434 and 3435: At least thirty (30) days prior to initial endorsement, the sponsor and mortgagor shall certify to the Commissioner on FHA Form 3434 as to their relationship with persons, parties or firms furnishing the land and services and such persons, parties or firms furnishing land and services shall certify to the Commissioner on FHA Form 3435 as to their relationship with the sponsor and mortgagor. Subsequent to such certification, if there is a change in the certified relationships, the sponsor, mortgagor and the other parties must furnish the Commissioner additional certifications with respect to each change. All relationships are subject to approval of the Commissioner and the Commissioner reserves the right to refuse endorsement of the note for insurance and to cancel the commitment is such relationships do not meet with his approval.

FHA FORM NO. 2452-A

B 184

Project No. 012-44002-4F-R

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Bond No. 173163
Executed in Seven
Counterparts

PAYMENT BOND

(THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT)

Know All Men By These Presents, THAT WE, I.W. Dromley & Co., Inc.
307 Lenox Avenue of New York, New York 10027
as Principal, (hereinafter called the Principal)
and The Travelers Indemnity Company, a Connecticut corporation, Surety,
(hereinafter called the Surety) are held and firmly bound unto Brownsville Housing Development
Fund Corporation as Obligee, (hereinafter called the "Owner"), for the use
and benefit of claimants as hereinafter defined, in the sum of Seven Million Seven Hundred
Nine [illegible] Hundred Dollars ($7,709,533.), lawful money of the United
Thirty [illegible]
States of America, for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a Construction Contract dated November 10,1970
with Owner for the construction of a Housing Project designated as Bolle Trow Hill Plaza I
FHA [illegible]
a copy of which Construction Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED and SEALED this 16th day of November, 19

Witness as to Principal—

[illegible] Contracting Co., Inc. (SEAL)
(Principal)

[illegible] By [illegible]
President

Countersigned by

The Travelers Indemnity Company
(Surety)

Donald F. Harned
Resident Agent,
State of New York

By [illegible]
Attorney-in-Fact

$ _____

(Surety)

PAYMENT BOND

No. _____

On Behalf of

To

Date _____, 19

Expires _____, 19

HUD-Wash., D. C.

224076-P

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
)ss:
COUNTY OF _____)

On this _____ day of _____, in the year 19___, before me personally came _____ to me known and known to me to be the person described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

_____
Notary Public

PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____)
)ss:
COUNTY OF _____)

On this _____ day of _____, in the year 19___, before me personally came _____, a member of the copartnership of _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of the said copartnership.

_____
Notary Public

CORPORATION ACKNOWLEDGMENT

STATE OF NEW YORK)
)ss:
COUNTY OF QUEENS)

On this 10th day of NOVEMBER, in the year 1970, before me personally came F.W. EVERSLEY, JR. to me known, who, being by me duly sworn, did depose and say that he resides in QUEENS, N.Y. that he is the PRESIDENT of the F.L. NORSLEY CO., INC. the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; and that it was so affixed by order of the Board of Directors of the said corporation, and that he signed his name thereto by like order.

_____
Notary Public

THADDEAUS L. BURNELL
NOTARY PUBLIC, State of New York
No. 41-0530605
Qualified in Queens County
Commission Expires March 30, 19[illegible]

Acknowledgment of Principal

S-569 11-47 Printed in U.S.A.

B 187

The Travelers Indemnity Company

Hartford, Connecticut

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That THE TRAVELERS INDEMNITY COMPANY, a corporation of the State of Connecticut, does hereby make, constitute and appoint

—— A. Bobowicz, Marie Bornschlegl, G. Collazo, R. D'Agati, M. Gambardella, Edward D. Gladstone, Donald F. Harned, M. H. Hart, Ernest M. Heidelberg, David J. Hunt, M. B. Kurtzrock, T. F. Maher, Arthur J. McClelland, Edward H. McCormack, B. Miller, E. R. Myers, A. J. Sullivan, Lawrence J. Welch, all of New York, New York, EACH ——

its true and lawful Attorney(s)-in-Fact, with full power and authority, for and on behalf of the Company as surety, to execute and deliver and affix the seal of the Company thereto, if a seal is required, bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof, as follows:

—— Any and all bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof ——

and to bind THE TRAVELERS INDEMNITY COMPANY thereby, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This appointment is made under and by authority of the following by-laws of the Company which by-laws are now in full force and effect:

ARTICLE IX, SECTION 13. The Chairman of the Board, the President, the Chairman of the Finance Committee, the Chairman of the Insurance Executive Committee, any Senior Vice President, any Vice President, any Second Vice President, any Secretary or any Department Secretary may appoint attorneys-in-fact or agents with power and authority, as defined or limited in their respective powers of attorney, for and on behalf of the Company to execute and deliver, and affix the seal of the Company thereto, bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof and any of said officers may remove any such attorney-in-fact or agent and revoke the power and authority given to him.

ARTICLE IX, SECTION 15. Any bond, undertaking, recognizance, consent of surety or written obligation in the nature thereof shall be valid and binding upon the Company when signed by the Chairman of the Board, the President, the Chairman of the Finance Committee, the Chairman of the Insurance Executive Committee, any Senior Vice President, any Vice President or any Second Vice President and duly attested and sealed, if a seal is required, by any Secretary or any Department Secretary or any Assistant Secretary or when signed by the Chairman of the Board, the President, the Chairman of the Finance Committee, the Chairman of the Insurance Executive Committee, any Senior Vice President, any Vice President or any Second Vice President and countersigned and sealed, if a seal is required, by a duly authorized attorney-in-fact or agent; and any such bond, undertaking, recognizance, consent of surety or written obligation in the nature thereof shall be valid and binding upon the Company when duly executed and sealed, if a seal is required, by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority granted by his or their power or powers of attorney.

This power of attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Directors of THE TRAVELERS INDEMNITY COMPANY at a meeting duly called and held on the 30th day of November, 1959:

VOTED: That the signature of any officer authorized by the By-Laws and the Company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond, undertaking, recognizance or other written obligation in the nature thereof; such signature and seal, when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

—— This power of attorney revokes that dated April 11, 1969 on behalf of A. Bobowicz, Marie Bornschlegl, G. Collazo, R. D'Agati, Brian N. Emerson, M. Gambardella, Edward D. Gladstone, Donald F. Harned, M. H. Hart, Ernest M. Heidelberg, David J. Hunt, M. B. Kurtzrock, T. F. Maher, Arthur J. McClelland, B. Miller, Donald F. Muldoon, E. R. Myers, A. J. Sullivan, Lawrence J. Welch ——

IN WITNESS WHEREOF, THE TRAVELERS INDEMNITY COMPANY has caused these presents to be signed by its proper officer and its corporate seal to be hereunto affixed this 5th day of May 19 70.

THE TRAVELERS INDEMNITY COMPANY

By Wm A. Shrake

Secretary, Surety

THE TRAVELERS INDEMNITY COMPANY SEAL

State of Connecticut, County of Hartford—ss:

On this 5th day of May in the year 1970 before me personally came Wm. A. Shrake to me known, who, being by me duly sworn, did depose and say: that he resides in the State of Connecticut; that he is Secretary (Surety) of THE TRAVELERS INDEMNITY COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of his office under the by-laws of said corporation, and that he signed his name thereto by like authority.

Margaret D. Luttle

Notary Public

MARGARET D. LUTTLE NOTARY PUBLIC HARTFORD, CONN.

My commission expires April 1, 1974

(Over)

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CERTIFICATION

I, E. A. Houser III, Assistant Secretary (Surety) of THE TRAVELERS INDEMNITY COMPANY certify that the foregoing power of attorney, the above quoted Section 13 and 15 of Article IV of the By-Laws and the Resolution of the Board of Directors of November 30, 1959 have not been abridged or revoked and are now in full force and effect.

Signed and Sealed at Hartford, Connecticut, this 20th day of November 1970.

THE TRAVELERS INDEMNITY COMPANY SEAL

E. A. Houser

Assistant Secretary, Surety

State of New York, County of New York ss:

On this 20th day of November, 1970, before me personally came

to me known, who, being by me duly sworn, did depose and say: that he resides in

; that he is Attorney-in-Fact of THE TRAVELERS INDEMNITY COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of said company; that the seal affixed to said instrument is such corporate seal of said company; that it was so affixed by the authority granted to him in accordance with the by-laws of said corporation; that he signed his name thereto by like authority; that the Superintendent of Insurance of the State of New York has, pursuant to Chapter 882 of the Laws of the State of New York for the year 1939 constituting Chapter 28 of the Consolidated Laws of the State of New York known as the Insurance Law, issued to THE TRAVELERS INDEMNITY COMPANY his certificate that said Company is qualified to become surety or guarantor on all bonds, undertakings, recognizances, guarantees and other obligations required or permitted by law; and that such certificate has not been revoked.

Marie Bornschlegl

Notary Public

My commission expires

MARIE BORNSCHLEGL
Notary Public, State of New York
No. 41-0353380
Qualified in Queens County
Cert. filed in New York County
Commission Expires March 30, 1971

THE TRAVELERS INDEMNITY COMPANY
HARTFORD, CONNECTICUT

Financial Statement December 31, 1969

ASSETS		Liabilities, Capital and Surplus	
United States Government bonds	$15,341,299.00	Losses and Loss Adjustment expenses	$633,429,531.84
Other public bonds	685,810,594.00	Unearned premiums	360,106,937.07
All other bonds	169,656,139.23	Reserves for taxes	15,989,155.10
Stocks—Preferred or guaranteed	41,400,319.00	All other reserves and liabilities	25,876,359.47
Common	158,511,802.61		
		TOTAL LIABILITIES	$1,085,401,983.48
Real Estate	0	Special Surplus Funds	0
Cash on hand and in banks	16,163,606.68	Capital	10,000,000.00
Premiums in course of collection	113,039,594.65	Unassigned surplus	199,133,782.96
Interest accrued	12,056,618.93		
All other assets	52,555,762.34	TOTAL CAPITAL AND SURPLUS	$209,133,782.96
TOTAL	$1,264,535,766.44	TOTAL	$1,264,535,766.44

The foregoing is a correct statement of the assets and liabilities of THE TRAVELERS INDEMNITY COMPANY as of December 31, 1969.

I, E. A. Houser III, Assistant Secretary (Surety) of THE TRAVELERS INDEMNITY COMPANY, certify that the foregoing is a true and correct statement of the financial condition of the Company as of December 31, 1969.

THE TRAVELERS INDEMNITY COMPANY SEAL

E. A. Houser

Assistant Secretary, Surety

S 185 (9-69) (BACK)

BOOK 2474 PAGE 374 B 189

FHA FORM NO. 2441
(Previous April 1962)

FEDERAL HOUSING ADMINISTRATION

BUILDING LOAN AGREEMENT

This instrument, executed in triplicate and dated the 17th day of July, 1964, by and between MUNROE TOWERS, INC.,

a corporation organized and existing by virtue of the laws of the State of New Jersey, with an office and place of business at 32 Court Street (care of Thomas S. Agresta) Brooklyn, New York in the City of New York, County of Kings, and State of New York, (hereinafter called the "Borrower"), and THE NATIONAL STATE BANK OF NEWARK, a National Banking Association, organized and existing under and by virtue of the laws of United States, having an office and place of business at 810 Broad Street in Newark, Essex County, State of New Jersey, (hereinafter called the "Lender").

WHEREAS, The Borrower as the owner in fee of or the owner of the leasehold estate in the lands hereinafter described in Exhibit "A", hereto attached and made a part hereof, has applied to the Lender for a mortgage loan of FOUR MILLION ONE HUNDRED SEVENTY-FOUR THOUSAND FIVE HUNDRED and no/100---------- Dollars ($4,174,500.00) to aid the Borrower in the construction on said land of a certain Housing project (hereinafter called the "project"), in accordance with certain Drawings and Specifications hereinafter referred to; and

WHEREAS, the Borrower understands that the Lender has received a commitment from the Federal Housing Commissioner (hereinafter called "Commissioner") for insurance of said loan under the provisions of the National Housing Act and intends upon execution of the hereinafter-mentioned Note and Mortgage to have same endorsed for insurance by the Commissioner; identified as FHA Project No. 031-30056 INV

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and of other valuable considerations, the parties hereto agree as follows:

(1) The Borrower agrees to take and the Lender agrees to make (subject, among other things, to this agreement) a loan in the principal sum of FOUR MILLION ONE HUNDRED SEVENTY-FOUR THOUSAND FIVE HUNDRED and no/100 ($4,174,500.00) Dollars ($) (hereinafter called "Loan"), to be advanced as hereinafter provided, bearing interest from the date of each advance at the rate of five & one-quarter percent (5¼ %) per annum, said loan being evidenced by a credit instrument (hereinafter called the "Note") dated the 17th day of July, 1964, payable in monthly installments, and having a final maturity on the first day of July, 2006, executed by the Borrower and payable to the Lender or order, and secured by a first mortgage (hereinafter called the "Mortgage"), of even date, which shall constitute a valid and only lien on the aforesaid property and the project to be erected thereon, except for liens, taxes and assessments not yet payable, and other liens acceptable to the Lender.

(2) The Borrower agrees to erect on the aforesaid land by 7/1/66 Housing project in accordance with Drawings and Specifications designated Munroe Towers (FHA Project No. 031-30056 INV.) dated the 17th day of July, 1964, including the "General Conditions of the Contract and FHA Supplementary General Conditions", and identified by the following parties or their duly authorized agents, Federal Housing Commissioner (Insurer), Owner (Borrower), Mortgagee (Lender), Contractor, Architect, and Bonding Company or Indemnitors as the case may be. A master set of said Drawings and Specifications (which said Drawings and Specifications shall not be deemed to be complete unless they shall include provision for improvement of a convenient way of access by foot and vehicle to all proposed buildings on the mortgaged premises and all necessary paving of private ways, and for curbs, sidewalks, gutters, landscaping, easements and utility connections and all essential equipment as required by the Federal Housing Commissioner necessary for the operation of a Housing project as a completed project) are to be deposited with and held by the Federal Housing Administration, and when so filed shall govern on all matters that may arise with respect thereto.

(3) All requests for changes in the Drawings and Specifications must be in writing, signed by the Mortgagee and the Mortgagor, and shall be conditioned upon acceptance by the Commissioner, which acceptance may be subject to such conditions and qualifications as the Commissioner in his discretion may prescribe, it being understood that the Commissioner at all times has the right to require compliance with the original Drawings and Specifications.

(4) Applications for advances under this agreement are to be made by the Borrower to the Lender in triplicate on FHA Form No. 2403, on or about the first day of each month after the commencement of work hereunder, for work done during the preceding month or part thereof or upon payment of and presentation of receipts to the Lender for the items enumerated in article (7) hereafter. The advance to which the Borrower shall be entitled,

with respect to construction items, shall be the total of the purchase price of uninstalled materials stored on the mortgaged property in a manner acceptable to the Commissioner plus the cost of the portions of the work acceptably completed as approved by the Lender and the Commissioner, computed in accordance with the amounts assigned to the several items in the Payment Breakdown, hereto annexed marked Exhibit B, less 10 percent and less prior advances. Applications shall be filed at least five days before the date upon which an advance is desired. The Borrower shall only be entitled to payment in the amount approved by the Lender and the Federal Housing Commissioner with respect to each application. Parts or the whole of any advance provided for herein may be advanced before due, if approved by the Lender and the Commissioner, but all such advances, if made, shall be deemed to have been made pursuant to this agreement and not in modification thereof.

Upon completion of the improvements, including all landscape requirements and off-site utilities and streets, the balance due the Borrower hereunder shall be payable upon the expiration of 30 days from the date of final completion and acceptance of the project by the Lender with the approval of the Commissioner: *Provided, however,* That this contract shall not be considered complete for purposes of final payment unless and until, all the work requiring inspection by municipal or other governmental authorities having jurisdiction, has been duly inspected and approved by such authorities and by the rating or inspection organization, bureau, association or office having jurisdiction and all requisite certificates of occupancy and other approvals have been duly issued: *And provided further,* That the Lender may withhold approval of final payment until after the expiration of any period which laborers, subcontractors, and materialmen may have for filing notice of Mechanics' Liens, and until after satisfactory completion of all off-site utilities and streets as required by the Lender and Federal Housing Commissioner.

(5) The Borrower agrees that any sum or sums required for the construction of the project over and above the proceeds of the loan and deposited with the Lender for that purpose shall be advanced by the Lender to the Borrower prior to the advance of any proceeds of the loan; and the Borrower covenants that it will receive all advances hereunder as a trust fund to be applied first for the purpose of paying for the cost of the improvements before using any part of the total of the same for any other purpose, but nothing herein shall impose upon the Lender any obligation to see to the proper application of such advances by the Borrower.

(6) The Borrower will cause this instrument or the construction contract under which the improvements are to be erected to be filed or recorded in the public records if the effect thereof will be to relieve the project from mechanics' and materialmen's liens. The Lender may require the Borrower to obtain and attach to each application for advance of mortgage money, acknowledgments of payment and releases of liens down to the date covered by the last advance, and concurrently with the final payment for the entire project, in form required by local lien laws, from the contractor and all subcontractors and materialmen dealing directly with the principal contractor which shall cover all work, labor and materials, including equipment and fixtures of all kinds, done, performed or furnished for the project.

(7) The Lender agrees to advance to the Borrower out of sums, if any, referred to in agreement (5) above and/or the proceeds of the loan the charges enumerated below, but only to the extent that such charges have accrued. Where appropriate the Borrower shall deliver to the Lender proper receipts showing payment of said items.

(a) Interest during Construction	$ 164,370.94
(b) Taxes during Construction (real estate)	$ 25,000.00
(c) Insurance during Construction	$ 15,300.00
(d) FHA Mortgage Insurance Premium	$ 20,872.50
(e) FHA Examination Fee	$ 14,477.10
(f) Initial Service Charge, if any	$ 62,617.50
(g) Title and Recording Expense	$ 20,872.46
(h) Inspection Fee	$ 20,872.50
(i) Additional items, if any.	
(j) Architect's Cash Fee	$ 95,000.00
(k) Legal and Organization Expense	$ 135,000.00
	$

(8) The Borrower agrees as a condition precedent to the advance of any portion of said loan to furnish the Lender with a duly certified survey of recent date and a Mortgagee's Title Policy (or other evidence of title) in form and substance and in companies and amounts satisfactory to the Lender and the Commissioner. Said policy (or other title evidence) shall be extended so as to cover each and every advance of said loan at the time of payment thereof. The Borrower will furnish a duplicate original of said survey and title policy (or title evidence) to enable the Lender to deposit same with the Commissioner.

(9) The Borrower agrees that said project shall be constructed strictly in accordance with all applicable ordinances and statutes and in accordance with the requirements of all regulatory authorities having jurisdiction and in conformity with the requirements of the rating or inspection organization, bureau, association or office having jurisdiction; that said project shall be constructed entirely on the aforesaid land and will not encroach upon or overhang any easement or right-of-way nor upon the land of others, and that the buildings when erected shall be wholly within the building restriction lines however established and will not violate applicable use or other restrictions contained in prior conveyances, zoning ordinances or regulations; and that it will furnish from time to time satisfactory evidence with respect thereto, together with a survey identified by a registered surveyor or engineer if required by the Lender or the Commissioner showing the project to be entirely on said land and free from such violations as aforesaid.

(10) If the Borrower at any time prior to the completion of the project abandons the same or ceases work thereon for a period of more than twenty (20) days or fails to complete the erection of the project strictly in ac-

cordance with the Drawings and Specifications, except as to changes approved as herein provided by the Lender and the Commissioner, or makes changes in the Drawings and Specifications without first securing written approval of the Lender and the Commissioner, or otherwise fails to comply with the terms hereof, any such failure shall be a default hereunder, at the option of the Lender, and the Lender may terminate this agreement, or the Lender, at its option, at any time thereafter may enter into possession of the premises and perform any and all work and labor necessary to complete improvements substantially according to Drawings and Specifications and employ watchmen to protect the premises from injury; all sums so expended by Lender to be deemed paid to Borrower and secured by said Mortgage. For this purpose, the Borrower hereby constitutes and appoints the Lender its true and lawful attorney-in-fact with full power of substitution in the premises, to complete the project in the name of the Borrower, and hereby empowers said attorney or attorneys as follows: To use any funds of the Borrower, including any balance which may be held in escrow and any funds which may remain unadvanced under the insured Mortgage for the purpose of completing the project in the manner called for by the Drawings and Specifications hereinbefore mentioned; to make such additions and changes and corrections in the Drawings and Specifications which shall be necessary or desirable to complete the project in substantially the manner contemplated by the Drawings and Specifications; to employ such contractors, subcontractors and agents, architects and inspectors as shall be required for said purposes; to pay, settle or compromise all existing bills and claims which may be liens against the said project, or as may be necessary or desirable for the completion of the job, or for clearance of title; to execute all applications and certificates in the name of the Borrower which may be required by any of the contract documents and to do any and every act which the Borrower might do in its own behalf. It is further understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest and cannot be revoked. The above-mentioned attorney shall also have power to prosecute and defend all actions or proceedings in connection with the construction of the project or mortgaged premises and to take such action and require such performance as he deems necessary under the accepted guaranty of completion. The Borrower hereby assigns and quit claims to the Lender all sums unadvanced under said Mortgage and all sums due in escrow conditioned upon the use of said sums in trust for the completion of the project, such assignment to become effective only in case of the Borrower's default.

(11) The Borrower agrees to provide or cause to be provided workmen's compensation insurance and public liability and other insurance required by applicable law or by the general conditions contained in the Specifications. The Borrower further agrees to provide insurance against fire, lightning and windstorm, which insurance shall be payable to the Borrower and during construction to the Contractor also, as interest may appear, with standard mortgagee endorsement attached making loss payable to the Lender or its assigns as Mortgagee, or to the Commissioner if required. All such policies shall be in such companies and in such form and amounts required by the Mortgage and shall be satisfactory to the Lender and the Commissioner. The originals thereof shall be deposited with the Lender.

(12) The Lender and its agents and the Commissioner and his agents shall, at all times during construction, have the right of entry and free access to the project and the right to inspect all work done, labor performed, and materials furnished in and about the project and to inspect all books, subcontracts and records of the Borrower.

(13) Any "holdback" shall be payable upon completion of the entire project, including off-site utilities, if any, in accordance with the aforesaid Drawings and Specifications to the satisfaction of the Lender and the Commissioner, subject to the provisions of paragraph 18 hereof.

(14) The Borrower agrees not to assign the rents without the consent of the Lender. As used in this instrument, the term "Lender" shall be deemed to include any person to whom the Note hereinbefore mentioned and the Mortgage securing the same shall be assigned with the consent of the Commissioner, and this instrument shall be binding upon the parties hereto and their respective successors and assigns.

(15) The Borrower agrees to execute and to deliver unto the Lender, upon completion of the project, a chattel mortgage or other similar instrument covering all property of any kind whatsoever purchased with the mortgage proceeds and concerning which there may be any doubt as to their being subject to the lien of the insured Mortgage under the laws of the State in which the project is situated.

(16) The Borrower agrees to furnish to the Lender assurances of completion of the project in the form stipulated in the applicable Regulations in effect on the date of this agreement, promulgated by the Federal Housing Commissioner under the provisions of the National Housing Act. Such assurance of completion shall run to the Lender as obligee and shall contain a provision granting to the Lender the authority to assign all rights thereunder to the Commissioner.

(17) The Borrower (1) understands that the wages to be paid laborers and mechanics employed in the construction of the Project are required by the provisions of Section 212 (a) of the National Housing Act, as amended, to be not less than the wages prevailing in the locality in which the work was performed for corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor with respect to this Project, and (2) hereby states that he has read the aforesaid determination by the Secretary of Labor and is fully familiar with the same.

The Borrower agrees as a condition precedent to the advance to him of any money hereunder to submit to the Commissioner (1) with each application for advance prior to the final application, a certificate or certificates in form approved by the Commissioner, certifying that all laborers and mechanics employed in the construction of the Project whose work is covered by this or any previous application and who have been paid in whole or in part on account of said employment have been paid at a rate not less than the rate of wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed in construction of a similar character, as determined by the Secretary of Labor with respect to this Project, and (2) with the final application for advance, a certificate or certificates in form satisfactory to the Commissioner, certifying that the Project has been fully constructed in accordance with the provisions of this Agreement and

that all laborers and mechanics employed in the construction of the completed Project have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor with respect to this Project. The term "prevailing wage determination" as used herein shall be construed to include all amendments and/or modifications to the original or superseding determination of prevailing wages which may be made prior to the beginning of construction.

The Borrower agrees to insert Provisions 9, 10, 11, 12, and 13 of the FHA Supplementary General Conditions in any contract made by him for the construction of the project or any part thereof and to require such contractor to insert similar provisions in each of his subcontracts.

The Borrower agrees that should any advances hereunder be ineligible for insurance under the National Housing Act by reason of the nonpayment of wages in accordance with the determination of the Secretary of Labor, or violation of any of the Labor Standards Provisions or Regulations of the Secretary of Labor issued May 9, 1951, pursuant to Reorganization Plan No. 14 of 1950 (written statement of any officer of the Federal Housing Administration or authorized agent of the Federal Housing Commissioner declining to insure any advance of funds hereunder by reason of nonpayment of wages in accordance with the determination of the Secretary of Labor, or violation of any of the Labor Standards Provisions or Regulations of the Secretary of Labor, being deemed conclusive proof that such advances are ineligible for mortgage insurance) the Lender may withhold from the Borrower all payments or advances payable to the Borrower hereunder until the Borrower establishes to the satisfaction of the Federal Housing Commissioner that (1) all laborers and mechanics or other persons employed in the construction of the project have been paid wages in amounts not less than those predetermined by the Secretary of Labor, or (2) any violations of the Labor Standards Provisions or Regulations of the Secretary of Labor no longer exist.

(18) Lender and borrower agree that the mortgage loan shall be reduced by the amount, if any, required by the Agreement and Certification, FHA Form No. 3305 , between the parties hereto and the FHA Commissioner, which agreement is incorporated herein by reference to the same as if set forth herein at length.

(To be executed and acknowledged in proper form.)
(Exhibits "A" and "B" must be attached.)

(19) For additional provisions see Rider attached hereto and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

Louis J. Pucciarelli, Secretary

MUNROE TOWERS, INC.

By: Carl Mione
Carl Mione, Vice President

ATTEST:

Richard J. Ratzenbuhler ASST. CASHIER

THE NATIONAL STATE BANK OF NEWARK

By: Chas. J. Horn
Chas. J. Horn, Vice President

RECORDED IN MORTGAGE BOOK
COUNTY CLERK'S OFFICE
9:55 1964
BOOK 2474 PAGE 377

13(339-P Rev. 6/62)

020-102

BOOK 2474 PAGE 378

RIDER ATTACHED TO AND FORMING PART OF
BUILDING LOAN AGREEMENT

4-A. It is understood and agreed that all or any part of the ten (10%) percent holdback retained in connection with work theretofore performed may be advanced to the borrower hereunder at any time or from time to time by the lender and any advance of such retained percentage shall be deemed to be made pursuant to this agreement and not in modification thereof; provided however, that the Federal Housing Commissioner may, but shall not be obligated to, insure such advance prior to completion for purposes of final payment as defined in this Paragraph (4); and provided further, that the insurance of such advance shall be further evidenced by the written consent of the Federal Housing Administration.

20. ADDENDUM TO ARTICLE "6" ABOVE: The following provision shall be included immediately following the end of "Article 6": "Notwithstanding any other provisions hereof, the lender shall not be obligated to make advances hereunder, unless said advances shall constitute a first lien against the premises."

21. ADDENDUM TO ARTICLE "10" ABOVE: The following provision shall be included immediately after the words "twenty (20) days" on Line 2, Article "10" above:
"or through its own acts or failure to act, fails to prosecute the work to the satisfaction of the lender and the Federal Housing Commissioner."

22. The Borrower will receive the advances to be made pursuant to this agreement and to be secured by said mortgage and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that it will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purposes.

T.K.P.

EXHIBIT "A"

DESCRIPTION

All that certain lot, tract or parcel of land and premises hereinafter particularly described, situate, lying and being in the City of Asbury Park in the County of Monmouth and State of New Jersey.

BEGINNING at the point formed by the intersection of the westerly line of Emory Street and the northerly line of Monroe Avenue, and running thence (1) north 65°30' west, along said northerly line of Monroe Avenue a distance of 350 feet to a point; thence (2) north 24°30' east, at right angles to said northerly line of Monroe Avenue, a distance of 200 feet to a point in the southerly line of Sewall Avenue; thence (3) south 65°30' east, along said southerly line of Sewall Avenue, a distance of 350 feet to the point formed by the intersection of the same with the westerly line of Emory Street, thence (4) south 24°30' west, along said westerly line of Emory Street, a distance of 200 feet to the point or place of beginning.

TOGETHER WITH all right, title and interest in and to the streets and roads abutting the above described premises.

FORM B 195

OMB No. 2536
Budget Bur

Federal Housing Administration

TRADE PAYMENT BREAKDOWN

To Be Executed By Contractor And Mortgagor

Form Approved
Budget Bureau No. 63-R007.1

ect Name MUNROE TOWERS - ASBURY PARK, NEW JERSEY Project No. 031-30056 INV.

nstructions: (1) Use one column for each building in the project, entering in the heading the same identifying number or letter used on e plans. Identical buildings may be grouped by listing their identifying numbers or letters in the same column heading. If additional ilumns are required attach additional sheets. (2) Opposite each of the Payment Breakdown items enter in each column the trade amount tributable to one building, as appropriate for each building identified in the heading. Note: Payroll taxes, insurance and job overhead e distributed among the trades to which they apply. (3) In column headed "Project Totals," enter total amount for each trade for the tire project. (4) On the line "Totals" enter the total for each column. (5) (Insuring Office to check) The costs of Garages or Accessry Buildings (a) [ ] are broken down by trades and include in Payment Breakdown items affected, or, (b) [ ] are entered as lump sum mounts as Item 35. (6) "Total Estimated Cost of On-Site Construction including Contractor's Cash Fee" shall not include carrying harges during construction, financing costs and architect's fee. It should represent the total cash required to meet the cost of construction to the mortgagor exclusive of architect's fee and must equal the contract price (or the upset price in a cost plus fixed fee contract) for on-site work, including the contractor's cash fee.

Payment Breakdown Items	Trade Amounts					Project Totals
	Bldg.	Bldg.	Bldg.	Bldg.	Bldg.	
Excavation	$	$	$	$	$	$ 51,000
Concrete Walls & Footings - FOUND.						501,000
Masonry						462,000
Dampproofing & Waterproofing						16,000
Concrete Floors & Cement Work - SUPERSTRUCTURE						923,000
Rough Carpentry						5,200
Finished Floor Flooring - RESILIENT						48,000
Misc. Millwork & Carpentry						31,000
Windows, Frames & Glazing						84,000
Doors & Frames						105,000
Stairs - CONCRETE						17,000
Misc. Iron & Structural Steel						108,000
Lathing & Plastering						215,000
Insulation						8,000
Roofing						9,000
Sheet Metal						1,200
Painting						102,000
Finish Hardware						2,000
Tile & Bathroom Accessories						50,000
Linoleum						4,000
Weatherstripping & Caulking						3,000
Refrigerators						36,000
Kitchen Ranges						22,257
Kitchen Cabinets						36,000
Kitchen Sinks						7,000
Plumbing & Hot Water Supply						250,000
Heating - BOILERS, PUMP, SLEEVES						220,000
Electrical Work						260,221
Special Equipment						1,725
Cooling - VENT. BLOWERS						5,200
Screens - WINDOWS #0						-0-
Misc. (Other trade items) - ELEVATORS & MISC. APPLIANCES						199,000
TOTALS	$	$	$	$	$	$3,000,000
Utilities On-Site						3,000
Landscaping & Planting On-Site						3,000
Garages (if not included in items 1 to 32)						-0-
Bond Premium						21,000
Off-Site Improvements						1,200
Total Estimated Cost Of On-Site Construction Exclusive Of Fees						$3,028,200
Contractor's Fee			$ 225,000			225,000
Less Amount To Be Paid By Mortgagor Other Than Cash			225,000			225,000
Balance Of Contractor's Cash Fee						-0-
Total Estimated Cost Of On-Site Construction Including Contractor's Cash Fee (Total Payment From Mortgagor)						$3,000,000

Contractor DEMATTEIS INTERNATIONAL By [signature] Date 3-21-1961

Mortgagor MUNROE TOWERS, INC. By [signature] Date 3-21-1961

Accepted By Federal Housing Administration [signature] Date 3/24/61

[signature] Chief Architect

[signature] Chief Underwriter

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STATE OF NEW JERSEY, }
COUNTY OF } ss.:

BE IT REMEMBERED, That on this day of 19
before me, the subscriber, a of the State of New Jersey

personally appeared

the of

who, I am satisfied, is the person who has signed the within instrument; and I having first made known to h the contents thereof, he thereupon acknowledged that he signed, sealed with the corporate seal and delivered the said instrument as such officer aforesaid; that the within instrument is the voluntary act and deed of said corporation, made by virtue of authority from its Board of

B 197

STATE OF NEW JERSEY,
COUNTY OF ESSEX } ss.:

BE IT REMEMBERED that on this day of 1964
before me, the subscriber, a Notary Public of the State of New Jersey

personally appeared

who, being by me duly sworn on his oath, doth depose and make proof to my satisfaction, that he
is the of THE NATIONAL STATE BANK OF NEWARK

the corporation named in the within Instrument;
that is the
President of said corporation; that the execution, as well as the making of this Instrument has been duly authorized by a proper resolution of the Board of Directors of said corporation; that deponent well knows the corporate seal of said corporation; and the seal affixed to said Instrument is such corporate seal and was thereto affixed and said Instrument signed and delivered by said President, as and for the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed his name thereto as witness.

Sworn to and subscribed before me,
at Newark, New Jersey
the date aforesaid

FHA FORM NO. 2485
Revised October 1958

B 198

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
Budget Bureau No. 63-R.602.3

PERMISSION TO OCCUPY
PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name Noble Drew Ali Plaza Project No. 012-44002-NP

Project Location 37 New Lots Avenue Brooklyn, N.Y. Request No. 3

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration:

Permission is requested for the occupancy of 84 (Number) living units identified as 11-21, 23-25 New Lots Avenue, 230-232, 240-242 Lott Avenue Brooklyn, New York and located in 5 & 6 Floor of the above listed buildings (Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with all fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities having jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and to the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

Date _____ By Brownsville Housing Devlopement Fund Co., Inc. (Mortgagor) Joseph Lyons - Pres.

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

Date June 8, 1973 By F.W. Eversley & Co., Inc. (Contractor)

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

Date JUN 18 1973 By ~~Manufacturers Hanover Trust Co.~~ (Mortgagee) (Authorized Signature)

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected 6/21/73 (Date) By ☐ Architectural Examiner ☐ Construction Representative

Approved ☒ as reported above; ☐ as modified by me ☐ Chief Architect ☐ Deputy

Approved: Date JUL 18 1973 By Assistant Manager for Technical Services ☐ Deputy

PERMISSION TO OCCUPY

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

Date 8-10-73 By FEDERAL HOUSING ADMINISTRATION, (Authorized Agent)

2485 - PERMISSION TO OCCUPY

FHA FORM NO. 2455
Rev. 10-71

B 199 Temporary C.O.#208561

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
OMB No. 63-R0802

PERMISSION TO OCCUPY — PROJECT MORTGAGES W.

(Original and four copies to be submitted to FHA)

Project Name	Project No.
Noble Drew Ali Plaza 1	012-44002-NP-R
Project Location	**Request No.**
37 New Lots Avenue, Bklyn, N.Y. 11212	1.

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration

Permission is requested for the occupancy of 155 (Number) living units identified as 11-21 New Lots Avenue, 23-25 New Lots Avenue, 230-232 Lott Avenue, 240-242 Lott Avenue

and located in West Building-2 Storefronts, Bldgs. 2, 3 and 4 (Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.
37 New Lots Ave., Brooklyn, N. Y. 11212
(Mortgagor)

Date January 24, 1973 By Joseph Epps Exec. Pres.

ARCHITECT'S CERTIFICATE OF SUBSTANTIAL COMPLETION

I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract documents so that owner may occupy the above described living or service units for the uses intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Date [illegible] ROGER D. GLASGOW, AIA
(Supervisory Architect)

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F. W. EVERSLEY & CO. Inc.
(Contractor)

Date January 26, 1973 By [illegible] Vice Pres.

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

MANUFACTURERS HANOVER TRUST COMPANY

Date JAN 29 1973 By [illegible] (Mortgagee)

To: _____ (Name of Mortgagee)
_____ (Street Address)
_____ (City-State)

W. A. PETERS
ASSISTANT SECRETARY

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected 5/2/73 (Date) By [illegible]
[ ] Architectural [X] Construction Representative

Approved [X] as reported above; [ ] as modified by me
[ ] Chief Architectural & Engineering Section [ ] Deputy

Approved: Date JUN 12 1973 By [illegible] DEPUTY ASSISTANT DIRECTOR FOR TECHNICAL SERVICES
[ ] Chief Underwriter [ ] Assistant Director for Multifamily Housing Programs [ ] Deputy

PERMISSION TO OCCUPY

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of those living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date JUN 19 1973 By _____ (Authorized Agent)

[illegible] PERMISSION TO OCCUPY

DEPARTMENT OF BUILDINGS

BOROUGH OF BROOKLYN B 200, THE CITY OF NEW YORK

Date JAN 18 1973 No. 203561

CERTIFICATE OF OCCUPANCY

NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE SHALL BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT

This certificate supersedes C.O. No. Part of

THIS CERTIFIES that the new ~~altered existing~~ building premises located at 11-21 & 23 & 25 New Lots Avenue, #230-232 and 240-242 Logan Avenue Block 3628 Lot 1

That the zoning lot and premises above referred to are situated, bounded and described as follows:

BEGINNING at a point on the ~~easterly~~ Northwest side of New Lots Avenue ~~distant~~ formed by the intersection of and Heyerman Avenue

running thence Northeast 308.95" feet; thence North 447.68" feet;
thence West 460.0" feet; thence South 90.0" feet;
running thence East 100.0" feet; thence South 460.0" feet;
East 66.75"

to the point or place of beginning, conforms substantially to the approved plans and specifications, and to the requirements of the Building Code, the Zoning Resolution and all other laws and ordinances, and of the rules of the Board of Standards and Appeals, applicable to a building of its class and kind at the time the permit was issued; and

CERTIFIES FURTHER that, any provisions of Section 646F of the New York Charter have been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent.

N.B. ~~Application~~ N.B. 1131/69 Construction classification- Class 3 Nonfireproof

Occupancy classification- Class "A" Multiple Dwelling. Height 6 stories, 63'6" feet.

Date of completion Const. 1/17/73 Located in R 6 Zoning District.

at time of issuance of permit. Plumb. 12/28/72

This certificate is issued subject to the limitations hereinafter specified and to the following resolutions of the Board of Standards and Appeals: and The City Planning Commission: (Calendar numbers to be inserted here)

PERMISSIBLE USE AND OCCUPANCY

Off-Street Parking Spaces Accessory Parking for eighty-five (85) Cars

Off-Street Loading Berths

STORY	LIVE LOADS Lbs. per Sq. Ft.	PERSONS ACCOMMODATED	USE
Cellar	On Ground	-	Storage, Boiler Room, Refuse Room
First	40	-	Thirty-five (35) Apartments
Second	40	-	Forty (40) Apartments
Third	40	-	Forty (40) Apartments
Fourth	40	-	Forty (40) Apartments
			Accessory Parking for eighty-five (85) Cars
	TOTAL:	One Hundred and fifty-five (155) Apartments and Accessory parking for eighty-five (85) Cars.	
	Note:	Public Assisted Housing	
Certificate of Approval #330 #332, dated January 18, 1973 (Fuel Oil)			
	TEMPORARY:	Ninety (90) Days - Expires April 18, 1973.	

Borough Superintendent

ORIGINAL

FHA FORM 40.2485
Rev. 10/71

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

B-201

Form Approved
OMB No. 63-R0302

PERMISSION TO OCCUPY -- PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name	Project No.
NOBLE DREW ALI PLAZA 1	012-44002-NP-R
Project Location	**Request No.**
Stone, Hegeman, & Lott Avenue	1

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration

Permission is requested for the occupancy of 146 (Number) living units identified as 37 New Lots Avenue and 250-252 Lott Avenue

and located in East Building (Building #1 and Building #5)
(Describe - structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
(Mortgagor)

Date August 8, 1972 By [signature] Pres.

ARCHITECT'S CERTIFICATE OF SUBSTANTIAL COMPLETION

I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract documents so that owner may occupy the above described living or service units for the use intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Date August 8, 1972 [signature] ROGER D. GLASGOW, AIA
(Signature of Architect)

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F. W. EVERSLEY & CO., INC.
(Contractor)

Date August 9, 1972 By [signature]

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

MANUFACTURER'S HANOVER TRUST COMPANY
(Mortgagee)

Date August 9, 1972 By [signature]
W. J. Peters, Asst. Secy.

To: Manufacturer's Hanover Trust Company
(Name of Mortgagee)
350 Park Avenue
(Street Address)
New York, N. Y.
(City, State)

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected 11/21/72 (Date) By [signature]
[ ] Architectural [ ] Construction Representative

Approved as reported above. [ ] As modified by me
[ ] Chief, Architectural & Engineering Section [ ] Deputy

Approved: Date NOV 30 1972 By [signature]
Acting [illegible] [illegible] Deputy

PERMISSION TO OCCUPY

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date [illegible] By [signature]
(Authorized Agent)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

F. W. EVERSLEY & CO., INC., and F. W. Eversley & Co., Inc., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

-against-

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

- x

U.S. DISTRICT CO. FILED AUG 11 1975 S.D. OF N.Y.

75 Civ. 85
(H.F.W.)
AFFIDAVIT

RECEIVED IN CHAMBERS OF JUDGE HENRY F. WERKER AUG 12 1975

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

MARGARET MYERSON, being duly sworn, deposes and says:

1. I am Deputy Director of the New York Area Office, United States Department of Housing and Urban Development ("HUD"). I make this affidavit upon information and belief, based upon records of the Department respecting the project that is the subject of this action. This affidavit is submitted in response to that of Thomas W. Eversley in support of plaintiff's motion for summary judgment, and in support of the motion of the Secretary of HUD ("the Secretary") for summary judgment.

2. The affidavit of Mr. Eversley indicates on page 2 that the Secretary will not "close" due to the inability of the owner to comply with a demand made by this office that the owner return approximately $250,000 of "misdirected" funds to the project. Upon receipt of the mortgagor's cost certification papers, this Department raised numerous questions with regard to the figures presented, relating to the eligibility of expenditures out of mortgage proceeds. Much of the expenditures in question relate to payments from mortgage proceeds made to the Moorish Science Temple, the

(18)

sponsor, and to Mr. Jeffries-El, the president of the mortgagor. 24 C.F.R. § 221.550(c), which is incorporated by reference in 24 C.F.R. § 236.1 so as to pertain to this project, states the following with regard to what items may not be included in Certificates of Actual Cost:

> "(c) Items not to be included: The Certificate shall not include as actual costs any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or to any of its officers, directors, stockholders or partners. Any such payments shall be deducted from the costs determined under paragraph (b) of this section."

Thus, pursuant to the regulations governing the final insurance endorsement, HUD could not accept the costs expended for these items. As a result thereof, the full mortgage would not be supportable and cash would have to be provided from some source to make up for the deficiency in order to pay other creditors. These regulations have been in effect for many years, and Mr. Eversley should have been well aware of them at the time he executed his contract, since his company has undertaken other projects in the past wherein costs were disallowed and had to be made up from other sources.

3. Mr. Eversley in his affidavit goes on to say that the owner has no other source for making up the shortage, and somehow, further alluding to normal underwriting security procedures followed by HUD, concludes that the FHA is the owner of the property and thus is responsible for the debts due him by the mortgagor. This conclusion is completely erroneous. Every action that Mr. Eversley speaks of that is required by FHA, such as the use of FHA forms, the review of plans and financing, and the approval of requisitions, is an action which any prudent mortgagee would take to assure itself of the security of the mortgage. The FHA is not even legally in a position to own the project, since the mortgage has not been assigned to it.

4. Mr. Eversley implies on page 3 of his affidavit that HUD engages the contractor and supervises construction. Mr. Eversley knows that this is not a fact. The contractor is hired by the mortgagor pursuant to arm's-length negotiations. The functions HUD has in this regard are the clearances with respect to the contractor's previous participation in federally-aided programs and in cost determination with regard to mortgage underwriting. The construction is supervised by an architect employed by the mortgagor. HUD does inspect project construction, but only to the extent necessary to assure the security of the mortgage.

5. In his discussion of "the Relevant Documents" on page 4 of his affidavit, Mr. Eversley makes the following parenthetical comment:

> "(Significantly, this estimated cost of the project falls below the statutory limit of $12,500,000, thereby allowing for an increase in the mortgage if necessary because of improvements in the project)"

Mr. Eversley implies that the only limitation on the amount of the mortgage debt is the total amount of $12,500,000. This is not true. There are other statutory limitations on the size of the mortgage based on unit cost as well as replacement value, and the smallest of these limitations would apply. See 12 U.S.C. § 1715 l(d)(3), made applicable to Section 236 projects by 12 U.S.C. § 1715 z-1(j)(3). However, none of these limitations are pertinent to this case, as in any event, HUD could not insure a mortgage in excess of the certified actual costs of the project pursuant to Section 227 of the National Housing Act, 12 U.S.C. § 1715r, and as further incorporated into the Agreement and Certification (paragraph 3) executed by the mortgagor, mortgagee and HUD prior to the inception of the project. A copy of this Agreement and Certification is annexed hereto as Exhibit A. Mr. Eversley, through his prior experiences with the Department, should have been aware of this. This provision is also incorporated into the Building Loan Agreement in paragraph 15, which states, "The Lender and Borrower agree that the mortgage loan shall be reduced by any amount required by the Agreement and Certification (FHA Form No. 3305) between the parties hereto and the Commissioner, which agreement is incorporated herein by reference..."

6. The plaintiff's affidavit on page 5 refers to the affidavit executed by the owner pursuant to Section 22 of the Lien Law of the State of New York and made a part of the Building Loan Agreement, and concludes that said affidavit assured them that upon satisfactory completion of the project, the sums for construction of the project would be paid out. The Building Loan Agreement in Section 4(e) states the following:

> "(e) The Borrower agrees that the loan shall at all times remain in balance. The Lender shall, in accordance with the provisions of this agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default hereunder or under the Note or Mortgage. The loan shall be deemed to be in balance only when the undistributed proceeds of the loan (after provision for reserves, fees, expenses and other deposits required by

> the Lender or the Commissioner) equal or exceed the amount necessary (based on the Commissioner's estimate of the cost of construction) to pay for all work completed and all materials delivered, for which payment has not been made, and the cost of completing construction of the project in accordance with the Drawings and Specifications."

In the instant case, the loan is not in balance and present estimates based on figures presented to this office would require the provision of in excess of $350,000 over mortgage proceeds to pay for all costs. Article 9, paragraph D of the Construction Contract refers to the terms of the Building Loan Agreement and puts the contractor on notice of them.

7. Mr. Eversley, on page 7 of his affidavit, states that the mortgagor agreed to pay the plaintiff the sum of $7,697,226. The contract in fact provided that the mortgagor would pay the actual cost of construction as defined therein plus a fee of $284,521, but in no event was the total to exceed $7,697,226. This was modified pursuant to an attachment to be increased by change orders. The plaintiff indicates FHA approval of change orders totaling $129,409.20. This is not so; the FHA in fact approved nine change orders for a total of $110,297. Copies of these change orders are annexed to the Secretary's 9(g) statement in this action as Exhibit 1.

8. Mr. Eversley further states that the usual method for paying for these change orders is through a mortgage increase at final endorsement. This procedure is of no use when the mortgage is in default, for the mortgagee would still be entitled to invoke the Building Loan Agreement provision that advances need not be made upon default.

9. The affidavit of the plaintiff further describes the fact that 10% retainage was withheld from each construction advance authorized, which retainage was reduced to 5% after the project reached 95% completion. The provision for such retainage was a term of both the Building Loan Agreement and the Construction Contract, and is usual in the construction industry. In this case, the relevant documents are clear that the amount of the retainage is an "advance" just like any other, and it is not insured until the Secretary has agreed to insure it. Annexed hereto as Exhibit B is a sample "Application for Insurance of Advance of Mortgage Proceeds," a portion of which reflects the certificate of insurance.

10. In discussing completion of improvements and request for final payment, the plaintiff on pages 7, 8 and 9 of his affidavit sets forth a series of facts, all culminating in his statement:

> "...All conditions contained in paragraph 3 of the Construction Contract were met:
>
> (1) All work requiring inspection by the municipal or governmental authorities was so inspected on or before January 18, 1973.
>
> (2) All Certificates of Occupancy were issued on or before January 18, 1973. (Exhibit K)
>
> (3) Permissions to Occupy (FHA Form 2485) were issued on or before January 24, 1973 (see Exhibit K).
>
> "Thus, plaintiff became entitled to full payment under the Construction Contract thirty days after January 18, 1973..."

The facts are as follows:

a. "Permission to Occupy" (FHA form 2485) was executed in three separate submissions of December 4, 1972, June 13, 1973, and August 10, 1973. Copies of these documents are annexed hereto as Exhibit C.

b. Permanent Certificates of Occupancy were not executed by the Department of Buildings of the City of New York until October 4, 1974. Copies of those certificates are annexed hereto as Exhibit D.

Thus the statement that plaintiff makes in his affidavit that he became entitled to full payment under the construction contract thirty days after January 18, 1973, is erroneous. The construction contract in Article 3, paragraph c, states:

> "C. The balance due the contractor hereunder shall be payable upon the expiration of 30 days after the work hereunder is fully completed, provided the following have occurred:
>
> ...
>
> (2) All certificates of occupancy, or other approvals, with respect to all units of the project have been issued by State or local governmental authorities having jurisdiction."

Hence it is obvious that the contractor could not have become entitled to his final payment prior to October 4, 1974, the date of the Permanent Certificates of Occupancy, which is substantially later than the date of February 18, 1973, indicated by the contractor.

11. The plaintiff's statement with respect to the failure of HUD to sign the Final Inspection Report is incorrect. In fact, this report was signed on April 24, 1975.

12. The plaintiff's affidavit in many places uses language which indicates that unless the FHA makes payment to the contractor, subcontractors and suppliers would not be paid, thus implying extraordinary harm to many persons unless Eversley gets paid. This should not happen. All subcontractors and suppliers are under separate contracts which this Department has never seen. The contractor in this case has filed Payment Bonds in the amount of $7,709,532 which should cover unpaid subcontractors and suppliers. See Exhibit 3 to the Secretary's 9(g) statement. Furthermore, it would appear that since the principal amount in dispute in this action is a 5% holdback, if the subcontractors and suppliers have been paid as construction progressed, they should not be owed more than 5% of their total bill by Eversley.

13. It should be emphasized that the position of HUD in this matter is that of an insurer of a building loan mortgage. Our only contractual obligations are pursuant to the insurance contract as stated in the Code of Federal Regulations. The mortgagee, Manufacturers Hanover Trust Company, has neither assigned the mortgage nor made claim for insurance benefits. The bank holds the retainages, not the Secretary, and it has not requested that we insure their advance.

14. The Construction Contract is a bilateral contract executed only by the mortgagor and the contractor. The requirements stated therein are the obligations of the parties to the contract. HUD never assumed any obligations thereunder nor did this Department in any way guarantee payment to the contractor. The National Housing Act was not set up for that purpose but rather for the purpose of insuring financial institutions so as to encourage them to loan funds for housing construction.

15. Mr. Eversley's requested relief, if granted, would require the mortgagee, and perhaps HUD in the event a claim is ever made for insurance benefits, to assume liability for obligations not contemplated by either the federal regulations or the lien law of the State of New York. This is so because such relief would require the bank or HUD to pay additional amounts to the mortgagor even though it had defaulted on its loan. No reasonable bank would obligate itself to make advances in such a situation, and to require it or HUD to do so in effect requires them to throw good money after bad.

16. In conclusion, it should be said that Mr. Eversley, of his own free will, entered into an arm's length contract with the owner of the property for the purpose of profit. It is presumed that he took risk factors into consideration before entering into that contract. Mr. Eversley, from his prior dealings with this office and from the terms of the Building Loan Agreement and the construction contract, knew or should have known that no funds could be advanced from mortgage proceeds if the mortgage was in default. This is the risk he assumed for the profit contemplated. He cannot now seek to shift the burden of risk to HUD.

WHEREFORE, I respectfully request that plaintiff's motion for summary judgment be denied, and that the Secretary's motion for summary judgment dismissing the complaint be granted.

Margaret Myerson

Sworn to before me this

8th day of August 1975.

John P. Sherlock

Notary Public

JOHN P. SHERLOCK
NOTARY PUBLIC, State of New York
No. 41-8966160 - Queens County
Term Expires March 30, 1976

FHA FORM NO. 3179
Rev. 7-69
(Previous revision obsolete)

B 209

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

AGREEMENT AND CERTIFICATION

(For use in Insurance of Advances Cases which do not include Profit and Risk Allowances)

This Agreement made this 18th day of November, 1970 by and between the Brownsville Housing Development Fund Corporation a N.Y. Corporation (hereinafter called Mortgagor), and * a New York corporation (hereinafter called Mortgagee), and the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner (hereinafter called Commissioner);

*Manufacturers Hanover Trust Company

WHEREAS, Mortgagor has applied to Mortgagee for a mortgage loan for the purpose of erecting a housing project to be located at Stone, Lott, Hegeman Aves. and identified as FHA Project No. 012-44002; and the Mortgagee has applied to the Commissioner for insurance of said mortgage loan under Section 236 of the National Housing Act; and

WHEREAS, the Commissioner has issued his commitment to insure said mortgage loan in the amount of $10,096,000.00 subject to reduction of said amount as provided in the National Housing Act and the Regulations promulgated pursuant thereto; and

WHEREAS, under the provisions of the National Housing Act and the Regulations promulgated pursuant thereto, this agreement is required;

NOW THEREFORE THIS AGREEMENT WITNESSETH:

(1) That in consideration of the agreement by the Mortgagee to make, and of the Commissioner to insure, said loan, Mortgagor agrees to submit to the Commissioner prior to the receipt of the final advance under the mortgage, and within the period fixed in the building loan agreement for completion of the project or any extension of such period approved in writing by the Commissioner, a fully completed and executed Mortgagor's Certificate of Actual Cost and, if required, a fully completed and executed Contractor's Certificate of Actual Cost on forms prescribed by the Commissioner and/or the FHA Form for Contractor's, Subcontractor's and Mortgagor's Certifications. The Mortgagor understands and agrees that each of the certificates of cost shall be supported by the certificate of an independent public accountant in form acceptable to the Commissioner.

(2) The Mortgagor and Mortgagee agree that the total advances of mortgage monies shall not exceed the amount permitted by the National Housing Act and the Regulations promulgated pursuant thereto.

(3) The Mortgagor agrees that if it receives from the Mortgagee monies in excess of that permitted under the National Housing Act and the Regulations promulgated pursuant thereto, it will pay upon demand forthwith to the Mortgagee any such excess for application to the reduction of the then outstanding principal balance of the mortgage. Mortgagee agrees that upon its receipt of such excess the contract of mortgage insurance is reduced by the amount of such excess.

The Mortgagor further agrees that if the Commissioner, for cost certification purposes, accepts estimates of costs for any items, the Mortgagor will, upon a determination of actual costs, submit in a form satisfactory to the Commissioner a certification of actual costs which shall be reduced by the net amount (total receipts less expenses of perfecting claims) of settlement of claims against bonding companies or others, and that if the substitution of such certified actual costs for the estimates of cost which were used at final endorsement would have required a reduction of the mortgage amount, the Mortgagor will, on demand, pay forthwith to the Mortgagee the amount of such reduction for application to the then outstanding principal balance of the mortgage or for deposit in the Reserve Fund for Replacements as directed by the Commissioner, provided that the disposition of such payment may be divided between application to the mortgage and deposit in said Reserve Fund.

(4) The Mortgagor understands that amounts allowed in the cost certification which are not required to be paid in cash may result in an excess of the cash proceeds of the mortgage over actual cash disbursements necessary to complete the project and the Mortgagor agrees that, if required by the Commissioner, any such excess cash shall, prior to final endorsement of the mortgage for insurance, be deposited in a special account from which disbursements may be made only with the prior written consent of the Commissioner.

(5) Mortgagor certifies that the financial interests or family relationships which exist between Mortgagor or any of its officers, directors, or stockholders with the Architect and with the General Contractor, subcontractors, suppliers, or equipment lessors are: (If none, so state).

None

(6) Mortgagor agrees to notify the Commissioner, in writing, prior to final endorsement of the loan for insurance, of any changes in relationship subsequent to the execution of this agreement which results in an identity of interest of the Mortgagor with the General Contractor or any subcontractor, supplier, or equipment lessor, in which case the Mortgagor's certification of actual cost will be accompanied by the Contractor's certification of actual cost in form prescribed by the Commissioner and, if required by the Commissioner, certification of actual cost by such subcontractor, supplier, or equipment lessor. It is agreed that the absence of such notice may be treated by the Commissioner as a representation that no change in relationship has occurred which creates any such identity of interest.

(7) Mortgagor agrees to maintain and keep adequate records of all costs referred to in (1) above, and to make such records available for examination by the Commissioner upon request.

(8) Mortgagor agrees that, where this agreement and certification reveals any identity of interest between the Mortgagor and the General Contractor, Mortgagor will include in the contract for the performance of the construction of the project a provision requiring the General Contractor, upon completion of the project, to submit to Mortgagor for delivery to the Commissioner its certificate of all actual costs of labor and materials and necessary services as required by paragraph (1) hereof. Mortgagor further agrees to include in the construction contract a requirement that the Contractor shall maintain adequate records of all such costs, and make such records, documents, contracts and accounts available for review upon request by the Federal Housing Commissioner.

* Insert type of mortgagor, e.g. "Individual", "Partnership", "(State) Corporation"

(9) Mortgagor agrees that it will require in the general contract and in all agreements with subcontractors (which term for the purposes of this paragraph shall also include material suppliers and equipment lessors) a provision that if there is, or comes into being, any identity of interest between the Mortgagor and any Subcontractor, or in those cases where the General Contractor is required to certify to actual cost between the General Contractor and any Subcontractor, then General Subcontractor will agree to submit to the Commissioner (and specifically named in writing by the Commissioner) a certificate of the actual cost of providing the material and/or services after deduction of all kickbacks, rebates, adjustments, discounts, or any other arrangements in the nature thereof, and that such Subcontractor will join in the execution and submission of the FHA form for Contractor's, Subcontractor's and Mortgagor's Certification. The Subcontractor's certificates of actual cost will be supported by the certification of an independent Certified Public Accountant or an independent Public Accountant in form acceptable to the Commissioner. For purposes of determining actual cost, no profit or general overhead may be included in the subcontract unless the Commissioner has in advance granted approval in writing of the subcontract and has approved a specific dollar amount or a specific percentage for profit and/or general overhead.

(10) Mortgagor agrees that if there comes into being any identity of interest between the Mortgagor and the Architect or between the General Contractor and the Architect, the Architect will immediately be relieved of inspection duties and the maximum Architect's fees allowable for cost certification purposes will be $ 112,676.00 * for design services only. No fees will be allowed to the identity of interest Architect for supervision.

(11) Mortgagor agrees that the construction contract will be on a cost plus fee basis with a maximum upset price if there is any identity of interest between the Mortgagor and the General Contractor, or under any other circumstances where the Commissioner requires the use of such a contract, and that for the purpose of determining the actual cost of the physical improvements on the mortgaged property, the allowance for the Contractor's fee shall not exceed $ 284,521.00 * and the general overhead expense shall not exceed $ 106,800.00 *; provided, however, that in the event more than 50 percent of the actual cost of construction is subcontracted with any one contractor or subcontractor, or more than 75 percent with 3 or less contractors or subcontractors, the Contractor's fee provided for herein shall not be allowed as an actual cost. For the purpose of this paragraph, it is further agreed that (a) the terms contractor and subcontractor include material suppliers and equipment lessors and (b) any two or more contractors or subcontractors having an identity of interest or common ownership shall be considered as one contractor or subcontractor.

(12) Mortgagor further agrees that, if there comes into being an identity of interest between the Mortgagor and the General Contractor following execution by the parties of a lump sum contract, the allowable cost of the construction contract to the Mortgagor will be determined as provided in paragraph (11) hereinabove.

(13) The foregoing agreements and certifications by the Mortgagor and Mortgagee are made and delivered for the purpose of influencing an official action of the Federal Housing Commissioner and are to be relied upon by the Commissioner as true.

IN WITNESS WHEREOF the parties hereto have duly executed this agreement the day and year first above written.

ATTEST:

Brownsville Housing Development Fund Corporation
(Mortgagor)

By _____
Joseph Jeffries-El, President

Manufacturers Hanover Trust Company
(Mortgagee)

By _____

SECRETARY OF HOUSING AND URBAN DEVELOPMENT
ACTING BY AND THROUGH THE
FEDERAL HOUSING COMMISSIONER

By _____
(Authorized Agent)

* Enter amounts from appropriate items on FHA Form No. 2264.

B 211

FHA FORM NO. 2403
Rev. 1/66

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
Budget Bureau No. 63-R0645

Advance No. 44 13

W/D

APPLICATION FOR INSURANCE OF ADVANCE OF MORTGAGE PROCEEDS

(For use of mortgagee. To be submitted to Federal Housing Administration in triplicate)

Project name Noble Brew Ali Plaza I Project No. 012-44002 MP

Mortgagor Brownsville Housing Development Fund Corp.

TO FEDERAL HOUSING ADMINISTRATION:

You are hereby notified that a request for a payment of $ 67,415.50 in accordance with the provisions of the Building Loan Agreement dated 11/15/72 between Brownsville Housing Development Fund Corporation and Manufacturers Hanover Trust Company has been received by the undersigned from the above-named mortgagor as shown in the Request for Payment, on the reverse side hereof. To the best of our knowledge, information and belief, the sum requested is now payable. We intend to disburse said sum on or about the 7th day of December, 1972, provided we receive prior approval.

$ 67,415.50 of the above amount will be advanced from mortgage proceeds, and the undersigned, therefore, requests that you issue a certificate approving the amount of such advance for mortgage insurance.

The undersigned certifies that hazard insurance as required by the Federal Housing Administration is in full force and effect upon whatever improvements are now upon the mortgaged premises including but not limited to materials stored on the site for which an advance is being requested.

You are further advised that after the payment herein first mentioned is made, a total sum of $ 9,359,917.23 will have been disbursed from mortgage proceeds and that the total sum of $ _____ will have been disbursed from the mortgagor's cash escrow of funds required, if any, over mortgage proceeds to complete the project.

Manufacturers Hanover Trust Company
Mortgagee.

Date November 30, 1972 By _____
(NOTE. - Original and all copies must be signed) W. A. Peters
Assistant Secretary

(For use of Federal Housing Administration only)

CERTIFICATE OF MORTGAGE INSURANCE

(Name and Address of Mortgagee)

To Manufacturers Hanover Trust Co.
350 Park Avenue
New York, New York 10022

Date December 4, 1972

You are hereby notified that $ 67,415.50 is approved for advance in accordance with the provisions of the Building and Loan Agreement. Of the above amount, $ 67,415.50 is hereby approved for mortgage insurance if advanced by you from mortgage proceeds in accordance with the above application, and this amount, when advanced, will thereupon constitute principal of that certain mortgage executed by Brownsville Housing Development Fund Corp., dated 15th day of November, 1970 covering certain property in Brooklyn, Kings County, New York, which mortgage was on 1st day of November, 19 70 endorsed by the undersigned for insurance "to the extent of advances approved by the Commissioner" and this certificate does hereby constitute the approval of the Federal Housing Commissioner for mortgage insurance under Section 236 of the National Housing Act and Regulations thereunder for the amount set forth herein, within the meaning of the aforesaid contract of insurance evidenced by such endorsement; provided, that if the above advance constitutes the final advance to be made under the terms of said Building Loan Agreement, this advance shall not be considered insured nor shall the original credit instrument be finally endorsed for insurance unless said instrument is first presented to this Administration together with an original and two conformed copies of a "Request for Final Endorsement of Credit Instrument" (FHA Form No. 2023) completed and executed by both Mortgagor and Mortgagee, and if there are any items of construction still incomplete, as per attached list, the sum of $ _____ shall have been placed in escrow under the provisions of an "Escrow Deposit Agreement" (FHA Form No. 2456).

FEDERAL HOUSING ADMINISTRATION

Certification recommended:

By _____
Authorized Agent.

Acting
DEPUTY ASSISTANT DIRECTOR
FOR TECHNICAL SERVICES
OPERATIONS DIVISION

(Signed) _____
Chief Underwriter

FHA FORM NO. 2403 Rev. 1/66

B 212

REQUEST FOR PAYMENT

(For use of mortgagor, to be submitted to mortgagee in quadruplicate)

Project name Noble Drew Ali Plaza I Project No. 012-44002-NP-R

To Manufacturers Hanover Trust Co., Mortgagee

The undersigned Mortgagor hereby requests a payment in the sum of $ 67,415.50 covering advances provided for by the Building Loan Agreement heretofore executed on the 18th day of November, 1970, as indicated by the total amount of the individual payments set forth in the schedule below.

PAYMENTS REQUESTED

All items shall be clearly identified by description. No item shall be applied for until payment is due.

A request covering construction cost shall show one entry for the total payment requested to meet the net amount due according to the Contractor's Requisition, Form 2448 attached hereto. The request for the first payment on account of the Architect's cash fee shall be accompanied by Mortgagor's and Architect's Certificate, Form No. 2403-1, attached hereto. Requests for subsequent payments on account of this fee shall be made simultaneously with the request for payments to cover the Contractor's Requisition.

Item	*Amount*
Interest 12/1/72	$67,415.50
TOTAL	$67,415.50

The undersigned hereby certifies that all of the above items, except interest and any sum identified as 'Contractor's Requisition' No. _____, have been paid, and we hand you herewith full receipts covering such items enumerated. With respect to any item of interest enumerated above, we herewith authorize you to advance same and charge our account therewith.

It is also certified that all prior work and the work, labor, and materials to be paid for under this Request are satisfactory and are in accordance with the contract drawings.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORP.

Date NOV 29 1972 By _____ Mortgagor

Architect's Certificate

(Not required if this request does not include a payment on account of construction cost)

I certify that I (or any authorized representative) have visited the project, within _____ days prior to the date of this Certificate, to determine the true basis of cost upon which I hereby certify this payment. I further certify that all prior work and the work labor, and materials, to be paid for under this Request for Payment are satisfactory and in accordance with the Contract Drawings.

_____ *Architect*

_____ By _____

FORM HUD-2485
v. 10-71

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Form Approved
OMB No. 63-R[illegible]

PERMISSION TO OCCUPY -- PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name	Project No.
NOBLE DREW ALI PLAZA 1	012-44002-NP-R
Project Location	**Request No.**
Stone, Hegeman, & Lott Avenue	1

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration

Permission is requested for the occupancy of 146 (Number) living units identified as 37 New Lots Avenue and 250-252 Lott Avenue

and located in East Building (Building #1 and Building #5)
(Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION
Mortgagor

Date August 8, 1972 By [signature] Pres.

ARCHITECT'S CERTIFICATE OF SUBSTANTIAL COMPLETION

I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract documents so that owner may occupy the above described living or service units for the uses intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Date August 8, 1972 [signature] . ROGER D. GLASGOW, AIA
Supervisory Architect

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F. W. EVERSLEY & CO., INC.
Contractor

Date August 9, 1972 By [signature]

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

MANUFACTURER'S HANOVER TRUST COMPANY
Mortgagee

Date August 9, 1972 By [signature]
W. A. Peters, Asst. Secy.

To Manufacturer's Hanover Trust Company
Name of Mortgagee
350 Park Avenue
Street Address
New York, N. Y.
City/State

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected 11/22/72 (Date) By [signature]
☐ Architectural ☒ Construction Representative

Approved ☒ as reported above; ☐ as modified by me
☐ Chief Architectural & Engineering Section ☐ Deputy

Approved: Date NOV 30 1972 By [signature]
Acting ☐ Chief Underwriter ☐ Chief Appraiser ☐ Chief Property Disposition ☐ Chief Mortgage Credit ☐ Chief Director for Technical Services ☐ Deputy

PERMISSION TO OCCUPY

OPERATIONS DIVISION

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date 12-1-72 By [signature]
(Authorized Agent)

2485 - PERMISSION TO OCCUPY

FHA Form No. 2485
Rev. 6-69

B-214

O. [illegible]

Form Approved
OMB No. 63-R[illegible]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

PERMISSION TO OCCUPY -- PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name: Noble Drew Ali Plaza]

Project No.: 012-44002-NP-R

Project Location: 37 New Lots Avenue, Bklyn, N.Y. 11212

Request No.: 1

REQUEST FOR PERMISSION TO OCCUPY

Federal Housing Administration

Permission is requested for the occupancy of 155 (Number) living units identified as 11-21 New Lots Avenue, 23-25 New Lots Avenue, 230-232 Lott Avenue, 240-242 Lott Avenue

and located in West Building-2 Storefronts, Bldgs. 2, 3 and 4 (Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

BROWNSVILLE HOUSING DEVELOPMENT YOUTH CORP.
37 New Lots Ave., Brooklyn, N. Y. 11212
Mortgagor

Date January 24, 1973 By Joseph Jeffries-El Pres.

ARCHITECT'S CERTIFICATE OF SUBSTANTIAL COMPLETION

I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract documents so that owner may occupy the above described living or service units for the uses intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Date Jan 25th 1973 ROGER D. GLASGOW, AIA
Supervisory Architect

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F. W. EVERSLEY & CO. Inc.
Contractor

Date January 26, 1973 By F.W. Eversley Jr. President

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

MANUFACTURERS HANOVER TRUST COMPANY
Mortgagee

Date JAN 29 1973 By W. A. Peters

To: _____
Name of Mortgagee
_____
Street Address
_____
City-State

W. A. PETERS
ASSISTANT SECRETARY

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected 5/25/73 (Date) By [illegible]
[ ] Architectural [X] Construction Representative

Approved [X] as reported above; [ ] as modified by me
[X] Chief Architecture & Engineering Section [ ] Deputy

Approved: Date JUN 12 1973 By [illegible]
DEPUTY ASSISTANT DIRECTOR FOR TECHNICAL SERVICES
[ ] Chief Underwriter [ ] Assistant Director [ ] Deputy

PERMISSION TO OCCUPY

Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptance of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date JUN 13 1973 By _____
(Authorized Agent)

DEPARTMENT OF BUILDINGS

B 215

BOROUGH OF BROOKLYN, THE CITY OF NEW YORK

JAN 18 1973 No. [illegible]

CERTIFICATE OF OCCUPANCY

NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE SHALL BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT

This certificate supersedes C.O. No. [illegible]

THIS CERTIFIES that the new ~~altered existing~~ building premises located at 21 & 23 & 25 New Lots Avenue, #230-232 and 240-242 Lot Avenue Block 3628 Lot 1

That the zoning lot and premises above referred to are situated, bounded and described as follows:

BEGINNING at a point on the ~~Easterly~~ Northwest corner formed by the intersection of New Lots Avenue and Hegeman Avenue

running thence Northeast 308.95" feet; thence North 447.68" feet;
thence West 160.8" feet; thence South 90.0" feet;
running thence East 100.0" feet; thence South 460.0" feet;
to the point or place of beginning,

conforms substantially to the approved plans and specifications, and to the requirements of the Building Code, the Zoning Resolution and all other laws and ordinances, and of the rules of the Board of Standards and Appeals, applicable to a building of its class and kind at the time the permit was issued; and

CERTIFIES FURTHER that, any provisions of Section 646F of the New York Charter have been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent.

N.B. ~~Under~~ N.B. 1131/69 Construction classification Class 3 Nonfireproof

Occupancy classification Class "A" Multiple Dwelling. Height 6 stories, 63'6" feet.

Date of completion Const. 1/17/73 Located in R 6 Zoning District

at time of issuance of permit. Plumb. 12/28/72

This certificate is issued subject to the limitations hereinafter specified and to the following resolutions of the Board of Standards and Appeals: and The City Planning Commission: (Calendar numbers to be inserted here)

PERMISSIBLE USE AND OCCUPANCY

Off-Street Parking Spaces Accessory Parking for eighty-five (85) Cars

Off-Street Loading Berths

STORY	LIVE LOADS Lbs. per Sq. Ft.	PERSONS ACCOMMODATED	USE
Cellar	On Ground	-	Storage, Boiler Room, Refuse Room
First	40	-	Thirty-five (35) Apartments
Second	40	-	Forty (40) Apartments
Third	40	-	Forty (40) Apartments
Fourth	40	-	Forty (40) Apartments
			Accessory Parking for eighty-five (85) C.

TOTAL: One Hundred and fifty-five (155) Apartments and Accessory parking for eighty-five (85) Cars.

Note: Public Assisted Housing

Certificate of Approval #330 #332, dated January 18, 1973 (Fuel Oil)

TEMPORARY: Ninety (90) Days - Expires April 18, 1973.

[signature]

Borough Supt. Comm.

ORIGINAL

B 216

Form Approved
Budget Bureau No. 63-R312.1

PERMISSION TO OCCUPY

PROJECT MORTGAGES

(Original and four copies to be submitted to FHA)

Project Name Noble Drew Ali Plaza Project No. 012-44002-NP

Project Location 37 New Lots Avenue Brooklyn, N.Y. Request No. 3

REQUEST FOR PERMISSION TO OCCUPY

To Federal Housing Administration:

Permission is requested for the occupancy of 81 (Number) living units identified as 11-21, 23-25 New Lots Avenue, 230-232, 240-242 Lott Avenue Brooklyn, New York and located in 5 & 6 Floor of the above listed buildings (Describe structure, wing, entrance, etc.)

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with all fixtures and equipment installed and in operating condition. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities having jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and to the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of tenants and the public. Proposed rental schedules or monthly charges in triplicate and mortgagor's proposal for management of the project and compensation to be paid therefor, if and as required by corporate charter have been or are herewith submitted.

Brownsville Housing Devlopement Fund Co., Inc.
Mortgagor

Date _____ By _____

CONTRACTOR'S CERTIFICATION

This is to certify that all work or correction necessary to complete the above-described living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless of any adverse conditions resulting from the occupancy of the aforesaid living units.

F.W. Eversley & Co., Inc.
Contractor

Date June 8, 1973 By _____

MORTGAGEE'S STATEMENT

Federal Housing Administration

All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

Manufacturers Hanover Trust Co.
Mortgagee

Date JUN 18 1973 By _____

FHA INSPECTION REPORT

Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.

Inspected _____ (Date) By _____ ☐ Architectural Examiner ☒ Construction Representative

Approved ☒ as reported above, ☐ as modified by me _____ ☐ Chief Architect ☐ Deputy

Approval Date JUL 16 1973 By _____ Area Director ☐ Deputy for Technical Review

Acceptance of this certificate for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy does not constitute and shall not be construed as acceptance of construction and that completion of these items in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

FEDERAL HOUSING ADMINISTRATION,

Date 8-10-73 By _____ (Authorized Agent)

2435 - PERMISSION TO OCCUPY

B 217

THE CITY OF NEW YORK

HOUSING AND DEVELOPMENT ADMINISTRATION

DEPARTMENT OF BUILDINGS

CERTIFICATE OF OCCUPANCY

BOROUGH Brooklyn DATE: OCT - 4 1974 NO. 211282

This certificate supersedes C.O. No. ZONING DISTRICT R-6

THIS CERTIFIES that the new ~~alteration~~ ~~extension~~ building—premises located at Block 2498

11-21 New Lots Avenue & 23-25 New Lots Avenue -230,232-210-212 Lots

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS AND SPECIFICATIONS AND TO THE REQUIREMENTS OF ALL APPLICABLE LAWS, RULES AND REGULATIONS FOR THE USES AND OCCUPANCIES SPECIFIED HEREIN

PERMISSIBLE USE AND OCCUPANCY

STORY	LIVE LOAD LBS. PER SQ. FT.	MAXIMUM NO. OF PERSONS PERMITTED	ZONING DWELLING OR ROOMING UNITS	BUILDING CODE HABITABLE ROOMS	ZONING USE GROUP	BUILDING CODE OCCUPANCY GROUP	DESCRIPTION OF USE
Cellar	On grade	-	-	-	-	-	Storage
First	100	336	-	-	4	-	Meeting Hall #1
		70	-	-	4	-	Meeting Hall #2
Cellar	On grade	-	-	-	-	-	Tenant's Laundry, Storage Mechanical Rooms, Boiler Maintenance Room and Compactor Room
First	40	-	-	-	-	-	Thirty-Five (35) Apartments
Second	40	-	-	-	-	-	Forty (40) Apartments
Third	40	-	-	-	-	-	Forty (40) Apartments
Fourth	40	-	-	-	-	-	Forty (40) Apartments
Fifth	40	-	-	-	-	-	Forty (40) Apartments
Sixth	40	-	-	-	-	-	Forty (40) Apartments

Total: Two-Hundred and Thirty-Five (235) Families

and accessory Off street parking for one-hundred and ninety six (196) cars.

Class "A" Multiple Dwelling - Public Assisted Housing

Certificate of Approval #15128 issued January 18, 1973 (fuel oil)

Note: Required accessory Off-street parking one-Hundred-Ninety-six (196) spaces both buildings on this site- as per City Planning 21351/69. See NB 1129/69 and City Planning 22003/73

OPEN SPACE USES (SPECIFY PARKING SPACES, LOADING BERTHS, OTHER USES, NONE)

NO CHANGES OF USE OR OCCUPANCY SHALL BE MADE UNLESS A NEW AMENDED CERTIFICATE OF OCCUPANCY IS OBTAINED

THIS CERTIFICATE OF OCCUPANCY IS ISSUED SUBJECT TO FURTHER LIMITATIONS, CONDITIONS AND SPECIFICATIONS NOTED ON THE REVERSE SIDE.

BOROUGH SUPERINTENDENT COMMISSIONER

ORIGINAL

THAT THE ZONING LOT ON WHICH THE PREMISES IS LOCATED IS BOUNDED AS FOLLOWS:

BEGINNING at a point on the West side of New Lots Avenue
distant 0 feet N from the corner formed by the intersection of
New Lots Avenue and Hegeman Avenue
running thence Northeast 100.93' feet; thence North 147.68' feet
thence West 160.0' feet; thence South 99.0' feet
thence East 100'-0" feet; thence South 160.0 feet
thence East 66.75' feet; thence feet
to the point or place of beginning

NB 11/31/68 DATE OF COMPLETION 10/1/74 CONSTRUCTION CLASSIFICATION Class 3 Non fireproof
BUILDING OCCUPANCY GROUP CLASSIFICATION HEIGHT 6 STORIES, 63'-6" FEET

THE FOLLOWING FIRE DETECTION AND EXTINGUISHING SYSTEMS ARE REQUIRED AND WERE INSTALLED IN COMPLIANCE WITH APPLICABLE LAWS

	YES	NO		YES	NO
STANDPIPE SYSTEM			AUTOMATIC SPRINKLER SYSTEM		
YARD HYDRANT SYSTEM					
STANDPIPE FIRE TELEPHONE AND SIGNALLING SYSTEM					
SMOKE DETECTOR					
FIRE ALARM AND SIGNAL SYSTEM					

STORM DRAINAGE DISCHARGES INTO
A) STORM SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

SANITARY DRAINAGE DISCHARGES INTO
A) SANITARY SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

LIMITATIONS OR RESTRICTIONS
BOARD OF STANDARDS AND APPEALS CAL. NO.
CITY PLANNING COMMISSION CAL. NO.
OTHERS

CB 219

THE CITY OF NEW YORK

HOUSING AND DEVELOPMENT ADMINISTRATION

DEPARTMENT OF BUILDINGS

CERTIFICATE OF OCCUPANCY

BOROUGH Brooklyn DATE: OCT - 4 1974 NO.

This certifies that CO No. ZONING DISTRICT

the new ~~alteration~~ building premises located at

at New Lots Avenue, 250-252 Lott Avenue Block 3658

CONFORMS ESSENTIALLY TO THE APPROVED PLANS AND SPECIFICATIONS AND TO THE REQUIREMENTS OF ALL APPLICABLE LAWS FOR THE USES AND OCCUPANCIES SPECIFIED HEREIN

PERMISSIBLE USE AND OCCUPANCY

FOR LOAD IN LBS PER SQ FT	NUMBER OF DWELLING UNITS PERMITTED	ZONING DWELLING OR ROOMING UNITS	BUILDING CODE HABITABLE ROOMS	ZONING USE GROUP	BUILDING CODE OCCUPANCY GROUP	DESCRIPTION
Co rade						Mechanical, Cellar or Rooms, Termin Storage
40		25	80			Twenty-five (25) A
40		25	81			Twenty-five (25) A
40		25	81			Twenty-five (25)
40		25	81			Twenty-five (2
40		25	81			Twenty-five (2
40		25	81			Twenty-five (2

TOTAL: One-Hundred and fifty (150) Apartments and accessory off-
parking for one-hundred-ninety-six (196) cars

Class "A" Multiple Dwelling

Certificate of Approval # 14900 issued August 24, 1972 (fuel oil)

NOTE: Public Assisted Housing

accessory off-street parking for one-hundred-ninety-six (196)
on this site as per City Planning 21351/69

(SPECIFY PARKING SPACES, LOADING BERTH, OTHER USES, ROOMS)

NO CHANGES OF USE OR OCCUPANCY SHALL BE MADE UNLESS A NEW AMENDED CERTIFICATE OF OCCUPANCY IS OBTAINED

THIS CERTIFICATE OF OCCUPANCY IS ISSUED SUBJECT TO FURTHER LIMITATIONS, CONDITIONS AND SPECIFICATIONS NOTED

COMMISSIONER

ORIGINAL

B 220

LOT ON WHICH THE PREMISES IS LOCATED IS BOUNDED AS FOLLOWS:

BEGINNING at a point on the West side of Stone Avenue
0 feet N from the corner formed by the intersection of
Stone Avenue and New Lots Avenue
North 447.63' feet; thence West 460'
South 90.0' feet; thence East 100.0'
South 460.0' feet; thence East 66.75'
Northeast 503.95' feet; thence
the point of beginning.

1129/69

DATE OF COMPLETION 10/1/74 CONSTRUCTION CLASSIFICATION Class 3-Non-fireproof
OCCUPANCY GROUP CLASSIFICATION HEIGHT 6 STORIES, 63'-6" FEET.

DETECTION AND EXTINGUISHING SYSTEMS ARE REQUIRED AND WERE INSTALLED IN COMPLIANCE WITH APPLICABLE LAWS

	YES	NO		YES	NO
			AUTOMATIC SPRINKLER SYSTEM		
M					
PHONE AND					
SYSTEM					

SEWAGE DISCHARGES INTO:
☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM

SEWAGE DISCHARGES INTO:
☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM

BOARD OF APPEALS CAL. NO.
CITY PLANNING CAL. NO.

PCS:ow
74-3984
d-400

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER

APR 1 5 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F.W. EVERSLEY & CO., INC. and F.W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- against -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

ORDER AND JUDGMENT

75 Civ. 85 (H.F.W.)

U.S. DISTRICT COURT FILED APR 15 1976 S.D. OF N.Y.

Plaintiff ("Eversley") having moved this Court for summary judgment pursuant to Rule 56, Fed. R. Civ. Proc., and defendants Manufacturers Hanover Trust Company ("Manufacturers") and Carla A. Hills, Secretary of the United States Department of Housing and Urban Development ("Department"), having cross-moved for summary judgment dismissing the complaint, and the cross-motions having come on to be heard before Honorable Henry F. Werker, U.S.D.J., on August 12, 1975, and the Court thereafter on February 3, 1976 having filed its memorandum opinion granting summary judgment to plaintiff and to defendant Department, and the Court having denied the cross-motion of defendant Manufacturers, it is

ORDERED, ADJUDGED AND DECREED that plaintiff Eversley recover the sum of $572,104.00 plus interest at 6% per annum from November 4, 1974, as hereinafter set forth,

PCS:ow
d-400

representing the balance of the mortgage loan not advanced by Manufacturers; and it is further

ORDERED, ADJUDGED AND DECREED that said amount of $572,104.00 with interest at 6% per annum from November 4, 1974 presently represents undisbursed mortgage proceeds under the Commitment for Insurance of Advances issued by the Federal Housing Commissioner acting on behalf of the Secretary of Housing and Urban Development dated August 3, 1970 with respect to Project No. 012-44002-NP-2 wherein defendant Brownsville Housing Development Fund Corporation is named as mortgagor and, when paid as hereinafter set forth, shall constitute proceeds insured by the defendant Department under said commitment relating to said project as though Manufacturers had made such disbursement of proceeds in the manner and with the authorization and approval of defendant Department as required by all applicable laws, rules and regulations, except that the foregoing is without prejudice to any defenses, setoffs, or penalties that the Department may be entitled to invoke against Manufacturers; and it is further

ORDERED, ADJUDGED AND DECREED that such recovery by plaintiff plus interest, as hereinabove set forth, be of defendant Manufacturers Hanover Trust Company until such time as defendant Department accepts and records the assignment of the mortgage dated November 18, 1970 between Brownsville Housing Development Fund Corporation, as mortgagor, and Manufacturers Hanover Trust Company, as mortgagee, and the mortgage note dated November 18, 1970 made by Brownsville Housing Development Fund Corporation to Manufacturers Hanover Trust Company in the amount of $10,096,000.00 together with the payment to defendant Department of said

PCS:ow
d-400

sum of $572,104.00 plus interest at 6% per annum from November 4, 1974, upon which acceptance and recording said judgment against defendant Manufacturers shall be deemed satisfied and defendant Manufacturers shall be dismissed from this suit, and, from and after such acceptance and recording, plaintiff shall recover of defendant Department the sum of $572,104.00 plus interest at 6% per annum from November 4, 1974, all with costs to be taxed, unless said judgment shall previously have been paid; and it is further

ORDERED, ADJUDGED, AND DECREED that the Clerk of this Court is directed to enter final judgment against Manufacturers Hanover Trust Co. as set forth above, this Court having expressly determined that there is no just reason for delay in the entry of judgment.

Dated: New York, New York
April 12, 1976.

Henry Werker
U. S. D. J.

ENTERED - 4/19/76
Raymond F. Burghardt
CLERK

PCS:ow
74-3984
d-400

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

F.W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- v -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

- x

COUNTER-
NOTICE OF
SETTLEMENT

75 Civ. 85 (HFW)

Please take notice that an order and judgment, a true copy of which is annexed, will be presented for settlement and signature to the Honorable Henry F. Werker, United States District Judge, at the office of the Clerk, United States Courthouse, Foley Square, New York, New York on April 12, 1976, at 10:30 A.M. or as soon thereafter as counsel can be heard.

Dated: New York, New York
April 2, 1976.

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant Carla A.
Hills

By: Peter C. Salerno
PETER C. SALERNO
Assistant United States Attorney
United States Courthouse Annex
One St. Andrews Plaza
New York, New York 10007
Telephone: (212) 791-1979

B 22[illegible]

PCS:ow
74-3984
d-400

TO: DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

WEISMAN CELLER, SPETT, MODLIN & WEI[illegible]EIMER, ESQS.
Attorn[illegible]s for Defendant
Manufacturers Hanover Trust Co.
425 Park Avenue
New York, New York 10022

B 226

PCS:bj
74-3984
M-1713

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

F. W. EVERSLEY & CO., INC. and F.W. EVERSLEY & CO., INC. on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs-Appellees,

-against-

CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

Defendant-Appellant,

and

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

----------x

NOTICE OF APPEAL

75 Civ. 85 (H.F.W.)

FILED
JUN 14 12 13 PM '76
U.S. DISTRICT COURT
S.D. OF N.Y.

PLEASE TAKE NOTICE that defendant Carla A. Hills, Secretary of the United States Department of Housing and Urban Development, hereby appeals to the United States Court of Appeals for the Second Circuit from the order and judgment of this Court, entered April 19, 1976.

Dated: New York, New York
June 14, 1976

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant Hills

By: Peter C. Salerno
PETER C. SALERNO
Assistant United States Attorney
Office and Post Office Address
United States Court House Annex
One St. Andrew's Plaza
New York, New York 10007
Tel.: (212) 791-1979

S:bj
-3984
1713

TO: Clerk, United States Court of Appeals
for the Second Circuit
United States Courthouse
Foley Square
New York, New York 10007

Demov, Morris, Levin & Shein
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

Weisman, Celler, Spett, Modlin,
Wertheimer & Schlesinger
Attorneys for Defendant
Manufacturers Hanover Trust Co.
425 Park Avenue
New York, New York 10022

B 220

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F.W. EVERSLEY & CO., INC., on behalf of itself and all other persons entitled to share in funds allocated for the improvement of real property owned by Brownsville Housing Development Fund Corporation,

Plaintiffs,

- against -

BROWNSVILLE HOUSING DEVELOPMENT FUND CORPORATION, CARLA A. HILLS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and MANUFACTURERS HANOVER TRUST CO.,

Defendants.

75 Civ. 85 (HFW)

NOTICE OF APPEAL

Notice is hereby given that Manufacturers Hanover Trust Company ("Manufacturers"), defendant above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final order and judgment entered in this action on the 19th day of April, 1976, wherein it was ordered and adjudged that plaintiff recover the sum of $572,104.00 with interest against defendant Manufacturers until such time as defendant, Carla A. Hills, Secretary of the United States Department of Housing and Urban Development ("Department"), accepts and records an assignment of mortgage dated November 18, 1970 and the mortgage note dated November 18, 1970 made by Brownsville Housing Development Fund Corporation to Manufacturers in the amount of $10,096,000.00 together with the payment to said defendant Department of the sum

of $572,104.00 plus interest, upon which acceptance and recording said judgment against defendant Manufacturers shall be deemed satisfied and defendant Manufacturers shall be dismissed from the suit, and, from and after such acceptance and recording, plaintiff shall recover of defendant Department the sum of $572,104.00 plus interest and costs.

Dated: New York, N.Y.
June 11, 1976

WEISMAN, CELLER, SPETT, MODLIN,
WERTHEIMER & SCHLESINGER

By: Samuel R. Rudey
Samuel R. Rudey
Attorneys for Defendant
MANUFACTURERS HANOVER TRUST COMPANY
Office & P.O. Address
425 Park Avenue
New York, New York 10022
Tel.: (212) 371-5400

TO: ROBERT B. FISKE, JR., ESQ.
United States Attorney for the
Southern District of New York
Attorney for Defendant, Carla A. Hills
PETER C. SALERNO, ESQ.
Assistant United States Attorney
United States Courthouse Annex
One St. Andrews Plaza
New York, New York 10007

DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

B 230

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HELEN ROTHSTEIN, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 72 Blauvelt Road, Monsey, N.Y.

On June 11, 1976 deponent served the within Notice of Appeal upon ROBERT B. FISKE, JR., ESQ., United States Attorney for the Southern District of New York, attorney for Carla A. Hills, One St. Andrews Plaza, New York, New York 10007 and upon DEMOV, MORRIS, LEVIN & SHEIN, ESQS., attorneys for plaintiff, 40 West 57th Street, New York, New York 10019, the addresses designated by said attorneys for that purpose, by depositing true copies of same enclosed in postpaid properly addressed wrappers in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me this
11th day of June, 1976.

Charles Wayne

Helen Rothstein
Helen Rothstein

CHARLES WAYNE
Notary Public, State of New York
No. 30-0571157
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires March 30, 1978

Form 280 A-Affidavit of Service by Mail
Rev. 12/75

AFFIDAVIT OF MAILING

State of New York)
County of New York) ss

Pauline P. Troia, being duly sworn, deposes and says that **s** he is employed in the Office of the United States Attorney for the Southern District of New York.

That on the

10th day of **September**, 19 **76** **s** he served a copy of the within **see below**

by placing the same in a properly postpaid franked envelope addressed:

1) **Samuel R. Rudáy, Esq., Weisman, Celler, Spett, Modlin, Wertheimer & Schlesinger, Esqs., 425 Park Ave. NY NY 10022**
(1 copy of appendix and one copy of addendum) CA 76-6097

2) **Eugene J. Morris, Esq., Demov, Morris Levin & Shein, Esqs., 40 West 57th St. NY NY 10019**
(1 copy of appendix, CA 76-6097
1 copy of appendix CA 76-6098 and 6099
1 copy of addendum

And deponent further says **s** he sealed the said envelope **s** and placed the same in the mail chute drop for mailing in the United States Courthouse Annex, One St. Andrews Plaza, Borough of Manhattan, City of New York.

Pauline P. Troia

Sworn to before me this

10th day of **September**, 19 **76**

Ralph I. Lee

RALPH I. LEE
Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1977